

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE UNITED STATES OF AMERICA, and)	
PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Plaintiffs,)	
)	CIVIL ACTION NO. 88-C-8571
v.)	
)	JUDGE CHARLES R. NORGLER, SR.
OUTBOARD MARINE CORPORATION,)	
)	
Defendant,)	
)	
and THE CITY OF WAUKEGAN, ILLINOIS,)	
)	
Defendant-Intervenor.)	
_____)	

**PARTIES’ JOINT NOTICE OF SECOND NON-MATERIAL MODIFICATION
TO THE SUPPLEMENTAL CONSENT DECREE**

Plaintiffs, United States of America (the “United States”) and the State of Illinois (the “State”) and Defendant Intervenor, the City of Waukegan, Illinois (the “City”)(collectively, the “Parties”), respectfully submit this Joint Notice of Second Non-Material Modification to the Supplemental Consent Decree (“Joint Notice”) and state as follows:

1. In February 1992, Outboard Marine Corporation (“OMC”) completed a sediment remediation project in Waukegan Harbor that entailed dredging, treating, and disposing of approximately one million pounds of sediments contaminated with polychlorinated biphenyls (“PCBs”) from that portion of the OMC National Priorities List (“NPL”) Superfund Site (the “OMC Site”) known as the Upper Harbor, pursuant to the Consent Decree entered by this Court

on October 7, 1988 between the United States and OMC (the “1988 Consent Decree”). A map of the OMC Site is attached hereto as Exhibit A. The area of Waukegan Harbor where PCBs were removed by OMC in 1992 is depicted on Figure 9 to the Work Plan attached to the 1988 Consent Decree and is attached hereto as Exhibit B.

2. The PCB-contaminated sediments from the Upper Harbor were deposited in three containment cells. One containment cell was constructed on a segment of submerged land of the Harbor, and what had been a boat slip, known as Slip 3. The former Slip 3 is depicted on Exhibits A and B attached hereto. The two additional containment cells, known as the West and East Containment Cells, were constructed on land that was not submerged, located on the north end of the OMC NPL Site. The location of the West and East Containment Cells are depicted on Exhibit A. Slip 3 and the West and East Containment Cells are hereafter referred to collectively as the “Containment Cells”.

3. On September 20, 1991, Larsen Marine Service, Inc. (“Larsen”) and OMC entered into the Settlement Agreement attached hereto as Exhibit C (hereafter the “1991 Settlement Agreement”). On January 1, 1997, pursuant to the 1991 Settlement Agreement and in order to allow OMC to convert Slip 3 to a PCB Containment Cell as required by the 1988 Consent Decree, Larsen conveyed the northern ½ of Slip 3 (PIN 08-22-100-52) to OMC. Larsen duly recorded the transfer in the Office of the Lake County Recorder of Deeds on May 21, 1997. Paragraph 13 of the 1991 Settlement Agreement further granted Larsen an option to acquire at no cost a portion of the Waukegan Manufactured Gas and Coke Plant Site (the “Option Property” and “WMG&CP Site”, respectively). The WMG&CP Site, a portion of the OMC Site, is depicted on Exhibit A as the “Waukegan Coke Plant.” The Option Property is depicted on page

3 of Exhibit D, attached hereto (outlined with a purple border and labeled the “Option Property”).

4. On December 22, 2000, OMC filed a petition for bankruptcy protection with the Bankruptcy Court for the Northern District of Illinois, Case No. 00 B 37405 (the “OMC Bankruptcy Proceeding”). On January 30, 2001, Larsen filed an adversary proceeding in the OMC Bankruptcy Proceeding (Adversary No. 01A00094) seeking injunctive relief to enforce the option on the Option Property set forth in the 1991 Settlement Agreement. On November 12, 2001, the Waukegan City Council enacted an ordinance authorizing proceedings to take portions of the OMC Site by eminent domain. On March 4, 2002, the trustee for the OMC bankruptcy estate filed a motion to dismiss the Larsen adversary proceeding for, among other reasons, Larsen’s failure to record the 1991 Settlement Agreement. On March 5, 2002, the City filed a motion with the bankruptcy court to lift the automatic stay on the City proceeding in eminent domain to condemn portions of the OMC Site, including the WMG&CP Site. On March 21, 2002, the OMC bankruptcy trustee filed a motion to approve the sale of WMG&CP Site to Larsen and to settle the Larsen adversary proceeding. On April 12, 2002, the City filed an objection to the proposed sale to Larsen. On April 23, 2002, the bankruptcy court entered an order lifting the automatic stay on the City eminent domain action and approving the sale of the WMG&CP Site to the City. On June 6, 2002, the OMC bankruptcy estate conveyed the WMG&CP Site to the City by quit claim deed, subject to Larsen’s rights to the Option Property, if any.

5. Thereafter, in 2002, Larsen commenced an action to enforce the 1991 Settlement Agreement in the Circuit Court for the Nineteenth Judicial Circuit, Lake County, Illinois, in an action styled *Larsen Marine Service, Inc. v. City of Waukegan, et al. Case No. 02 MR 1333* (the

“2002 Larsen Action”). The 2002 Larsen Action sought declaratory and injunctive relief with respect to the Option Property.

6. On December 9, 2002, the OMC bankruptcy estate granted the City an option to purchase the OMC Site, including the PCB Containment Cells (the “2002 Option Agreement”). The City duly recorded the 2002 Option Agreement in the Office of the Lake County Recorder of Deeds on January 9, 2003.

7. The City intends to use the WMG&CP Site and the OMC Site for various public and private uses and facilitate the redevelopment of the area for mixed-use residential, public, commercial and/or recreational uses as provided in the City’s Master Lakefront-Downtown Master Plan (“Master Plan”). A copy of the Master Plan is available for review at <http://www.waukeganvision.com>.

8. On October 13, 2004, this Court entered a Consent Decree (“2004 Consent Decree”) in an action styled *United States et al., v. the City of Waukegan et al.*, Civil No. 04 C 5172 (N.D. Ill.) resolving the claims brought by the United States and the State against the City, the Elgin, Joliet & Eastern Railway Company (“EJ&E”), General Motors Corporation (“GM”), Larsen and the North Shore Gas Company (“North Shore”) at the WMG&CP Site.

9. Under the 2004 Consent Decree, the City agreed to perform the operation and maintenance (“O&M”) of the remedy relating to soil clean up at the WMG&CP Site. GM and North Shore are obligated to finance and perform remedial action at the WMG&CP Site selected by the United States Environmental Protection Agency (“U.S. EPA”) in the September 1999 Record of Decision (“ROD”). The City and Larsen are obligated to provide the access agreements and institutional controls required to implement the selected remedy at the WMG&CP Site.

10. On June 23, 2005, this Court entered a Consent Decree supplementing the 1988 Consent Decree (“2005 Supplemental Consent Decree”) between the United States, the State and the City that resolved, subject to the reservations and limitations contained therein, any potential liability of the City and its successors, assigns and transferees for the Existing Contamination (as defined in the 2005 Supplemental Consent Decree) at the OMC Site, including the PCB Containment Cells, which may otherwise result under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. § 9601, *et seq.*, and other authorities, from the City exercising the 2002 Option Agreement and becoming the owner of certain Property at the OMC Site (use of the term “Property” herein shall mean that term as defined in the 2005 Supplemental Consent Decree), and taking other actions with respect to that Property. Under the 2005 Supplemental Consent Decree, the City agreed to perform certain operation and maintenance activities at the OMC Site, including at the PCB Containment Cells.

11. The 2005 Supplemental Consent Decree contemplated the City’s exercise of the 2002 Option Agreement and the redevelopment of portions of the OMC Site consistent with the remedial action selected by U.S. EPA, and the Master Plan. The City at the time of entering into the 2005 Supplemental Consent Decree, and continuing afterwards, had discussions with Larsen regarding settlement of the 2002 Larsen Action, which settlement would include leasing certain portions of the OMC Site to Larsen, specifically Slip 3, for marine commercial usage near its existing marina operations at the north end of Waukegan Harbor in exchange for Larsen relinquishing any alleged interests in the Option Property.

12. The 2005 Supplemental Consent Decree, pursuant to terms of Paragraph 51 therein, provides that the City may lease portions of the OMC Site to third parties. The 2005

Supplemental Consent Decree further provides, pursuant to Paragraph 71 therein, that any non-material modifications to that Consent Decree may be made by written agreement of the Parties without further Court approval, but shall be filed with the Court. As provided in Paragraph 71, however, nothing in the 2005 Supplemental Consent Decree shall be deemed to alter the Court's power to enforce, supervise or approve modifications to it.

13. This Joint Notice sets forth the Parties' agreement on the details of the second non-material modification to the 2005 Supplemental Consent Decree regarding the leasehold interest of property, specifically Slip 3, located on the OMC Site and subject to the 2005 Supplemental Consent Decree. Previously, on January 5, 2007, certain other parties filed an initial Parties' Joint Notice of Non-Material Modification to the 2005 Supplemental Consent Decree in this case, concerning a license agreement for an unrelated parcel at the OMC Site.

14. On September 22, 2006, the City and Larsen entered into a Final Settlement Stipulation settling the 2002 Larsen Action (the "2006 Settlement Stipulation"). The 2006 Settlement Stipulation is attached hereto as Exhibit E. The 2006 Settlement Stipulation resolves the dispute between the City and Larsen over ownership of the Option Property arising out of the 1991 Settlement Agreement. Pursuant to the 2006 Settlement Stipulation, Larsen agreed to quit claim whatever interest it may hold in the Option Property located on the WMG&CP Site to the City. In return, the City agreed to lease Slip 3 to Larsen for a term of 99 years. The lease is attached as Exhibit F. Slip 3 is currently owned and maintained by the City under the terms of the 2005 Supplemental Consent Decree. The City agreed to use its best efforts to obtain approval by the United States and the State to redevelop Slip 3 for marine commercial usage within three years of the date of the 2006 Settlement Stipulation in accordance with the Design Memorandum submitted to U.S. EPA on November 22, 2006 ("2006 Design Memorandum").

15. The U.S. EPA and State have determined that the proposed redevelopment of Slip 3 may proceed subject to this Joint Notice. The terms and conditions for said redevelopment have been established in correspondence between the Parties concerning the 2006 Design Memorandum and refinements thereof, including the City's response dated October 30, 2007, to the comments by U.S. EPA and the State on the 90% design alteration of Slip 3. Correspondence from U.S. EPA dated August 6, 2007 and the State dated August 24, 2007 preliminarily approving with comments the 90% design for the redevelopment of Slip 3, are attached hereto as Exhibits G and H, respectively. U.S. EPA and State reserve the right to undertake further review of the final design of the proposed alteration of Slip 3.

16. Under the 2006 Settlement Stipulation, the City also agreed to a short term lease of an additional property located on the OMC Site, identified as North Plant Leased Premises ("NPLP"), to Larsen until such time that Slip 3 has been prepared for marine commercial usage. The NPLP is identified on page 2 of Exhibit D and consists of approximately 3.26 acres of land immediate across Sea Horse Drive adjacent to and north of the existing Larsen property. The NPLP will serve as an interim boat storage facility while the U.S. EPA and State review the approval of redevelopment of Slip 3 for marine commercial usage.

17. The property subject to the 2006 Settlement Stipulation that is the subject of this Joint Notice is Slip 3. In accepting a leasehold interest in Slip 3, Larsen seeks the benefits and protections of the 2005 Supplemental Consent Decree through the 2006 Settlement Stipulation and this Joint Notice, and agrees to meet the obligations of the 2005 Supplemental Consent Decree applicable to Slip 3 as set forth in this Joint Notice.

18. The City acknowledges that the Governments are modifying the 2005 Supplemental Consent Decree as to the proposed long term lease agreement for Slip 3 with

Larsen only because the boat storage was contemplated in the 2005 Supplemental Consent Decree, Larsen is a party to the related case, *U.S. and State of Illinois v. City of Waukegan*, et al. Case No. 04 C 5172, and Slip 3, a PCB Containment Cell, has extremely limited future use options.

19. In accordance with Section V, General Provisions of the 2005 Supplemental Consent Decree, the City will provide Larsen with written notice of: (i) the 2005 Supplemental Consent Decree; (ii) the City's obligations under the 2005 Supplemental Consent Decree including, but not limited to, its O&M requirements and institutional controls requirements on transferees; (iii) any instrument by which an interest in real property has been conveyed that confers a right of access to the Property (hereinafter referred to as "access easements") pursuant to Section VIII (Access/Institutional Controls) of the 2005 Supplemental Consent Decree, and (iv) any instrument by which an interest in real property has been conveyed that confers a right to enforce restrictions on use of such property (hereinafter referred to as "restrictive covenants") pursuant to Section VIII (Access/Institutional Controls).

20. At least 30 days prior to any conveyance of the Property, as required by the 2005 Supplemental Consent Decree, the City shall also give written notice to U.S. EPA and the State of the proposed conveyance, including the name and address of the grantee, and the date on which notices of the 2005 Supplemental Decree, access easements, and/or restrictive covenants were given to the grantee.

21. In accordance with the Section III, Parties Bound, provisions of the 2005 Supplemental Consent Decree, nothing herein shall revoke the City's obligations to perform operation and maintenance pursuant to the 2005 Supplemental Consent Decree. This Joint Notice relates only to a portion of the Property located within the OMC Site, specifically Slip 3.

22. Larsen agrees that so long as the lease agreement discussed in the 2006 Settlement Stipulation with respect to Slip 3 remains in effect, as transferee, Larsen shall have all of the rights and benefits conferred upon the City, as transferor, that are set forth in the Section XVIII, Parties Bound/Transfer of Covenant, provisions of the 2005 Supplemental Consent Decree.

23. Larsen agrees to abide by and provide access and comply with the requirements that are set forth in Paragraph 9 and the Section VIII, Access/Institutional Controls provisions of the 2005 Supplemental Consent Decree, including institutional controls imposed pursuant to Paragraphs 19 and 20 of the 2005 Supplemental Consent Decree.

24. In accordance with the Section XVI Reservation of Rights provisions of the 2005 Supplemental Consent Decree, Larsen acknowledges that it shall be liable for damages to the remedial measures under the ROD installed at Slip 3, future releases of hazardous substances caused or contributed to by it, and for exacerbation of any Existing Contamination, as that term is defined in the 2005 Supplemental Consent Decree, but only if such future damages, releases or exacerbation are related to construction and operation of the boat storage facility on Slip 3.

25. The Parties agree that execution of this Joint Notice by the Parties meets the City's notification and Government approval requirements of Paragraph 49 of the 2005 Supplemental Consent Decree and that no further notification to or approval from U.S. EPA or State for the 2006 Settlement Stipulation is required. The Parties further agree that the City is authorized to enter into the 2006 Settlement Stipulation and lease agreements for Slip 3 under Paragraph 51 of the 2005 Supplemental Consent Decree and that no further approval or consent is required from any Party under such paragraph or any other provisions of the 2005 Supplemental Consent Decree in order for the 2006 Settlement Stipulation to become effective.

Solely for the purposes of Paragraph 51 of the 2005 Supplemental Consent Decree, the Parties agree Larsen is entitled to all of the benefits of the 2005 Supplemental Consent Decree as provided in Paragraph 51.

26. Execution of this Joint Notice by Larsen serves as its agreement to be bound by all the terms and conditions, and subject to the benefits and obligations, of the 2005 Supplemental Consent Decree, as applicable to the OMC Site as defined in this Joint Notice and thereby meets all of the requirements of Paragraph 51 of the 2005 Supplemental Consent Decree. Larsen's execution of this Joint Notice is deemed to constitute the certification required under Section XIV of the 2005 Supplemental Consent Decree, and written consent to the Covenants Not to Sue the United States and the State as provided in Section XVII of the 2005 Supplemental Consent Decree, in order for the Covenants Not to Sue in Section XV of the 2005 Supplemental Consent Decree to be effective with respect to Larsen.

27. The City and Larsen acknowledge and agree that any transfer of the Property, as that term is defined Paragraph 4 of the 2005 Supplemental Consent Decree, shall include Slip 3 and be subject to the Larsen lease. The City certifies that the legal description contained in Exhibit F was prepared and certified by Frank J. Furlan, Jr., Registered Illinois Land Surveyor No. 1449, and the City reasonably believes the legal description contained in Exhibit F accurately describes the Slip 3 leased premises. The City and Larsen further acknowledge and agree that any future purchaser of the Property shall be bound by all requirements of the O&M Plan, including, but not limited to, compliance monitoring and corrective action program requirements for the entire Property as provided in Paragraph 51 of the 2005 Supplemental Consent Decree.

28. The Parties acknowledge and agree that Larsen has entered into the 2006 Settlement Stipulation and has executed this Joint Notice as Third Party Beneficiary in reliance upon the provisions set forth in the 2005 Supplemental Consent Decree and in this Joint Notice, and in particular Sections XV and XVIII of the 2005 Supplemental Consent Decree and further acknowledge and agree that Larsen is intended to be, and is, a Third Party Beneficiary of such provisions and may enforce such provisions in a proceeding before this Court or any other court of competent jurisdiction.

29. Nothing herein modifies the obligations of the City under the terms of the 2005 Consent Decree, including, but not limited to, Paragraph 42 (Covenant Not To Sue). In the event of a conflict between the 2005 Supplemental Consent Decree and 2006 Settlement Stipulation, or any other lease or agreement entered into between the City and Larsen pursuant to the 2006 Settlement Stipulation, the 2005 Supplemental Consent Decree shall control. The City agrees to retain the obligations to perform all requirements of the 2005 Supplemental Consent Decree with respect to Slip 3 if Larsen ceases to perform any of its obligations for this portion of the OMC Site under the 2006 Settlement Stipulation as a result of a dispute between the Parties concerning any requirements under the 2006 Settlement Stipulation.

30. Paragraph 71 of the 2005 Supplemental Consent Decree provides that non-material modifications may be made by agreement of the Parties and filed with the Court. The Parties do not believe that action is required by the Court to approve this non-material modification, but are ready to participate in a hearing to provide additional details of this non-material modification to the Court or provide additional status reports as may be requested by the Court.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:

RONALD J. TENPAS
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

12/29/08
Date



ALAN S. TENENBAUM
FRANCIS J. BIROS
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 616-6552

PATRICK FITZGERALD
United States Attorney
Northern District of Illinois
U.S. Department of Justice
219 South Dearborn Street
Chicago, Illinois 60604-1702
(312) 353-1994

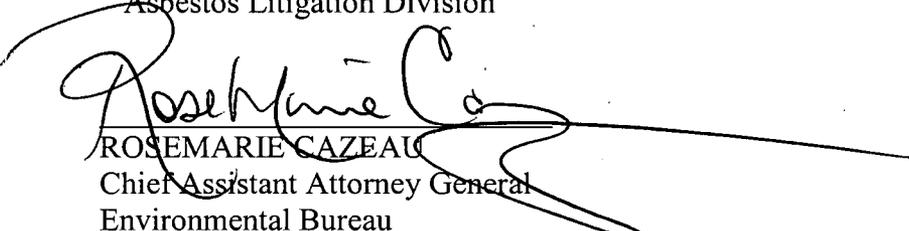
FOR THE STATE OF ILLINOIS:

LISA MADIGAN
Attorney General
State of Illinois

MATTHEW J. DUNN
Chief, Environmental Enforcement/
Asbestos Litigation Division

12/26/08
Date

By:


ROSEMARIE CAZEAU
Chief Assistant Attorney General
Environmental Bureau
69 West Washington St.
18th Floor
Chicago, IL 60602
(312) 814-3094

FOR THE UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

LYNN BUHL
Regional Administrator, Region 5, R-19J
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3507
(312) 886-3000

1-6-09
Date



THOMAS J. MARTIN
Associate Regional Counsel
U.S. Environmental Protection Agency
Region 5 (C-14J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3507
(312) 886-4273

FOR THE CITY OF WAUKEGAN, ILLINOIS:

Date: December 24, 2008 By:

Signature 
Name Jeffery D. Jeep
Title Attorney for the City of Waukegan
Address Jeep & Blazer, L.L.C.
24 N. Hillside Avenue
Hillside, Illinois 60162
Illinois ARDC # 6182830

FOR LARSEN MARINE SERVICE, INC.:

Date: JANUARY 7, 2009 By:

Signature Gerald N Larsen
Name Gerald N Larsen
Title President
Address 625 Sea Horse Dr
Waukegan, IL 60085

CERTIFICATE OF SERVICE

I, Michael S. Blazer, an attorney for City of Waukegan, certify that I have caused the foregoing **PARTIES' JOINT NOTICE OF SECOND NON-MATERIAL MODIFICATION TO THE SUPPLEMENTAL CONSENT DECREE** to be served on all counsel of record through the court's CM/ECF system, which constitutes service under LR 5.9, and on the individuals below, via electronic mail, on this 14th day of January, 2009.

Alan S. Tenenbaum
Environmental Enforcement Section
Environment and Natural Resources
Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Alan.Tenenbaum@usdoj.gov

Thomas J. Martin
Assistant Regional Counsel
USEPA Region 5
C-14J
77 West Jackson Boulevard
Chicago, IL 60604-3507
martin.thomas@epa.gov

RoseMarie Cazeau
Chief Assistant Attorney General
Environmental Bureau North
69 West Washington Street
Suite 1800
Chicago, IL 60602
rcazeau@atg.state.il.us

Mark Steger
Holland & Knight LLP
131 South Dearborn Street
30th Floor
Chicago, IL 60603
mark.steger@hklaw.com

Counsel for Larsen Marine Service, Inc.

s/Michael S. Blazer
Michael S. Blazer

EXHIBIT LIST

¶ REF.	EXHIBIT	ID
1	OMC Site Map	A
1	Figure 9 to the Work Plan	B
3	September 20, 1991 Settlement Agreement between Larsen and OMC	C
3	Summary of Settlement Agreement between Larsen and City	D
14	September 22, 2006 Final Settlement Stipulation settling the 2002 Larsen Action	E
14	Slip 3 Lease between City and Larsen	F
15	Preliminary approval of design by USEPA, with comments, dated August 6, 2007	G
15	Preliminary approval of design by IEPA, with comments, dated August 24, 2007	H

EXHIBIT A
OMC SITE MAP

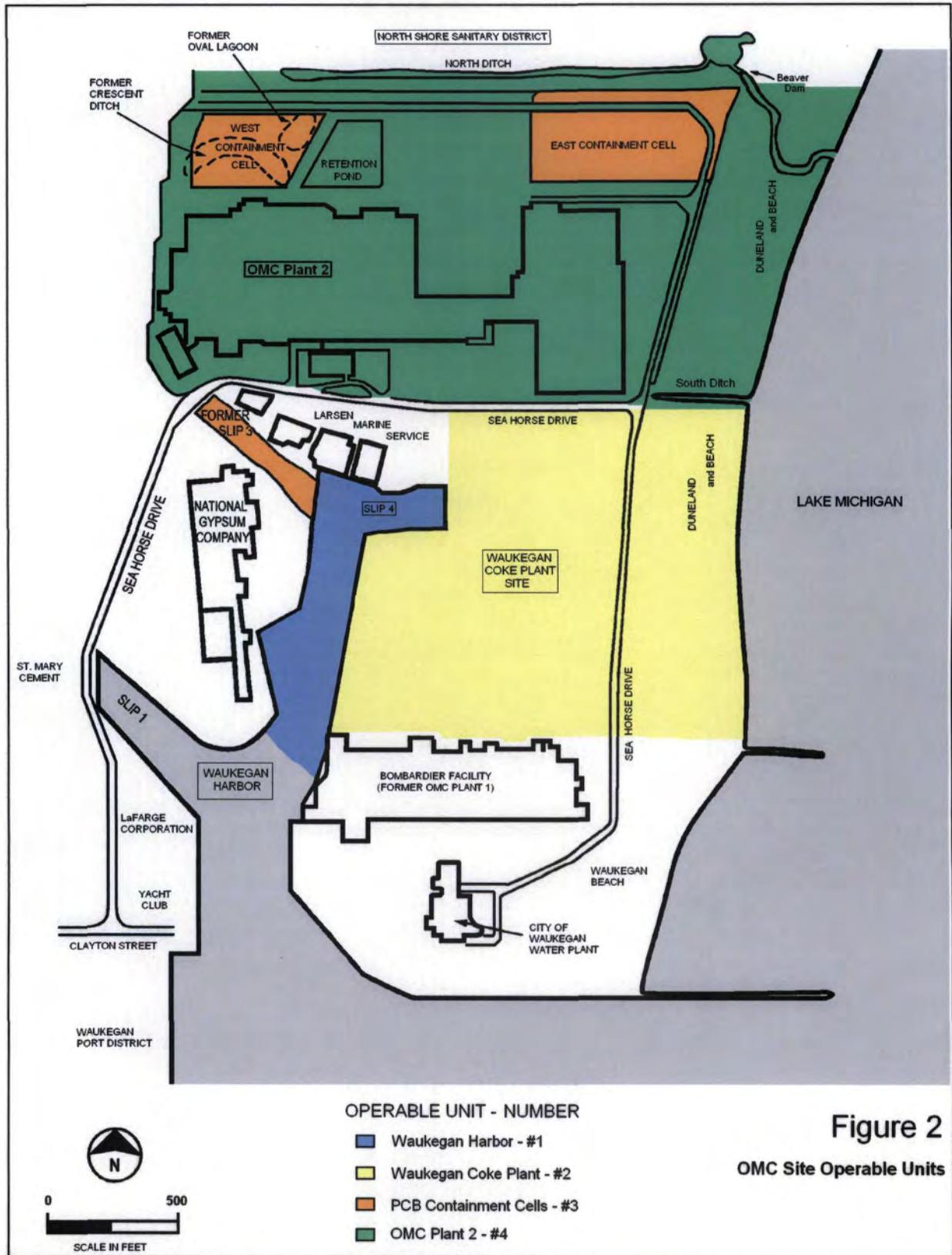
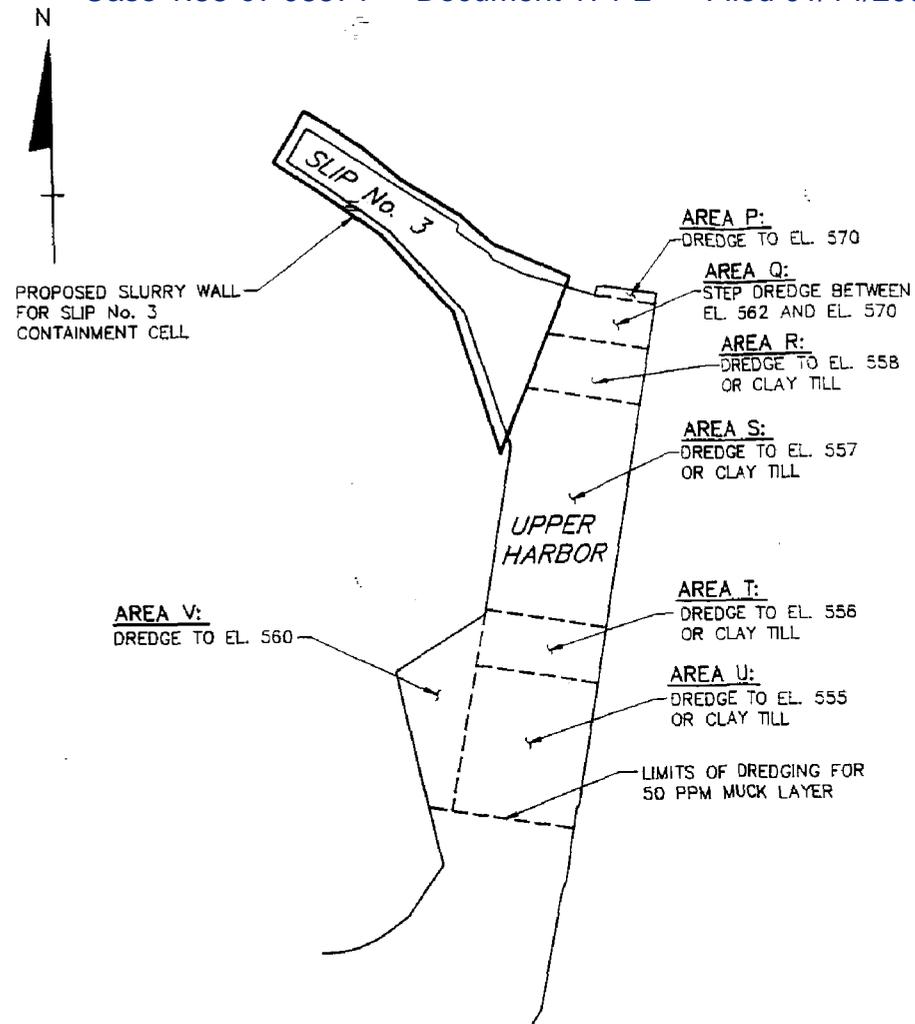


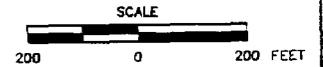
EXHIBIT B
FIGURE 9 TO THE
1988 CONSENT DECREE

DRAWING NUMBER	86-059-887
CHECKED BY	SAK
	APPROVED BY
DRAWN BY	2-9-88
REVISIONS	NO. DATE



NOTES:

1. VERTICAL EXTENT OF DREDGING BASED ON 1980 TOP OF SAND CONTOURS, SEE MASON AND HANGER REPORT, EPA JOB No. 606, "DREDGING AND WATER TREATMENT FOR REMOVAL OF PCB CONTAMINATION IN WAUKEGAN HARBOR." TOP OF SAND, WHERE PRESENT, TO BE CONFIRMED AFTER DREDGING.



UPPER HARBOR MUCK LAYER
LIMITS OF DREDGING
WAUKEGAN HARBOR, WAUKEGAN, ILLINOIS

DATE: 2-9-88	FIGURE 9	DRAWING NUMBER: 86-059-887
SCALE: AS SHOWN		

EXHIBIT C
1991 SETTLEMENT AGREEMENT

SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered into by and between **LARSEN MARINE SERVICES, INC.** of 625 Sea Horse Drive, Waukegan, Illinois ("Larsen"), a Delaware corporation, and **OUTBOARD MARINE CORPORATION** of 100 Sea Horse Drive, Waukegan, Illinois ("OMC"), a Delaware corporation.

I. RECITALS

1. Larsen operates a marine facility adjacent to the existing Slip 3 in Waukegan Harbor.
2. Larsen is the owner of the lands below the surface of approximately the northern one-half of the existing Slip 3 and the property adjacent thereto.
3. OMC operates manufacturing facilities in the Waukegan Harbor area.
4. OMC is the owner of the lands below the surface of the remainder of existing Slip 3 and the property adjacent thereto.
5. On August 25, 1988, OMC signed a Consent Decree with the United States Environmental Protection Agency and the Illinois Environmental Protection Agency by virtue of which OMC has funded a trust to remediate damage to the Waukegan Harbor Superfund site allegedly caused by the discharge of polychlorinated biphenyls.

KWZ

6. The remediation of Slip 3 will require that it be closed off, filled and capped which actions will deny Larsen further use of Slip 3 and cause Larsen to lose use of boat slips and launching areas currently located in Slip 3.
7. The Work Plan as set forth in and mandated by the Consent Decree requires OMC to construct a New Slip as a part of the remediation of Waukegan Harbor.
8. As it is used herein, the phrase "Completion of the New Slip" shall mean the opening of the mouth of the New Slip to the existing Waukegan Harbor and completion of any work to be performed by the Trustee on the New Slip under the Consent Decree.
9. North Shore Gas Company has entered into an Administrative Order By Consent to investigate conditions existing on the property adjacent to Larsen and OMC, now known as the Waukegan Manufactured Gas and Coke Plant Site, a portion of which property is being used for the construction of the New Slip.
10. With respect to the relocated New Slip, Larsen and OMC have reached an agreement regarding its configuration, certain attendant appurtenances, and the disposition of certain real property in and around both Slips.
11. Larsen and OMC mutually desire to resolve all issues between them raised by the required Waukegan Harbor remediation and the Waukegan Manufactured Gas and Coke Plant Site remediation,

KWR

LB

if any, including any claims by either parties, their respective, successors, affiliates, subsidiaries, assigns, directors or officers pursuant to the terms herein.

II. AGREEMENT

NOW THEREFORE, in consideration of the mutual promises herein and the execution of this Agreement, and in full settlement and discharge of all claims and causes of action attributable to the Waukegan Harbor remediation and the Waukegan Manufactured Gas and Coke Plant Site remediation, Larsen and OMC agree as follows:

1. OMC will, subject to approval by all regulatory agencies, construct a New Slip in accordance with the drawing attached as Exhibit A. OMC agrees to prepare the design drawings and documentation to seek necessary approvals. The New Slip will have an equivalent of approximately nine hundred and seventy-two (972) lineal feet or more of sheeting driven up to a depth of thirty (30) feet with a beach front at the easternmost portion of the slip. Construction drawings regarding the New Slip have been and will continue to be provided to Larsen.
2. OMC will be responsible for the cost and the installation of electric, water and sewer services to the New Slip area. In addition, OMC will provide a new gantry runway pad system, including new structural supports. Larsen will be provided

with specifications of any equipment and the plans for all services to be installed, as they become available and prior to transmission to U.S. EPA. Access to existing Slip No. 3 shall remain open until such time as the New Slip is available for use.

3. Larsen will be responsible for the cost and installation of any pilings, dock assemblies, walkways, fuel systems, or equipment that may be necessary.
4. Upon completion of the New Slip, Larsen will convey to OMC approximately 1.23 gross acres, including .66 acres of land and .57 acres of harbor area, as set forth on the drawing attached as Exhibit B. This land will include the building currently designated as building F by Larsen. Until this conveyance is completed, Larsen will grant access to the .66 acres to OMC, its designees and other appropriate parties for purposes of the Harbor remediation. This property will be used for the construction of the Slip 3 containment cell, including a slurry wall. Construction of the northern portion of this containment cell slurry wall will not commence prior to June 4, 1991 unless otherwise mutually agreed.
5. Larsen will retain an easement of approximately thirty (30) feet in width over the 1.23-acre parcel. This easement is specifically created to provide Larsen the ability to move boats across the property in order to access Larsen property adjacent to and west of Sea Horse Drive. The location of this easement will be as shown on Exhibit B.

6. Larsen will grant an easement to OMC of approximately thirty (30) feet in width for the installation, maintenance and service of various utilities on the property which they will retain to the east of the .66 acres of land conveyed to OMC. The location of this easement is shown in the drawing attached as Exhibit B.
7. OMC will retain an easement for utilities on the parcel to be conveyed to Larsen pursuant to Paragraph II.9 below. The location of the easement will be as shown in the drawing attached as Exhibit C. This easement shall be for the installation, maintenance and service of any utility.
8. With regard to all property conveyed or easements granted by Larsen identified in this Agreement and its attachments, Larsen agrees to remediate soil and ground water contamination caused by their ownership or operation of a fuel storage and distribution system. However, if U.S. EPA or Illinois EPA orders OMC or the Waukegan Harbor Trustee to remediate any contamination due to Larsen's fuel storage and distribution system, then Larsen agrees to indemnify and hold harmless OMC for all costs attributable to that remediation. Larsen represents and warrants that it is not aware of any release of any hazardous substances on said property as a result of its activities.
9. OMC shall convey to Larsen approximately 6.8 gross acres including the New Slip in accordance with the drawing attached as Exhibit C upon the completion of the New Slip. Use of the

KWL

JOB

upper harbor portion of this conveyance prior to the completion of the entire Waukegan Harbor remediation shall be subject to U.S. EPA approval.

10. OMC will provide for comparable surface drainage for those portions of Larsen's property which will be affected by the remediation.
11. In addition to the conveyances and easements identified herein, Larsen grants to United States Environmental Protection Agency, Illinois Environmental Protection Agency, the Army Corps of Engineers, the Waukegan Harbor Trust and OMC or the designees of these parties access to that property reasonably necessary, including property acquired herein, for the limited purposes of supervision, implementation or inspection of the remediation as ordered by the Work Plan approved in the case United States v. Outboard Marine Corporation, 88C8571, and as amended by proper authority thereafter.
12. OMC will indemnify and hold harmless Larsen for a period of 15 years for claims, including those for contribution or indemnity, arising under CERCLA or the equivalent provisions of the Illinois Environmental Protection Act relating to the parcel referred to in Paragraph II.9 of this Agreement; provided, however, that OMC will not indemnify or hold harmless Larsen for any citizen suit brought under §310 of CERCLA by a person who is or becomes a Larsen Marine dockage or storage customer on or after the date of this Agreement.

KirL

Job

13. For 10 years after the completion of the New Slip, Larsen shall have the right to acquire at no cost, subject to necessary utility easements, in one or more parcel(s), up to an additional 10.22 gross acres of property, including 9.66 acres of land and .56 acres of harbor area, to the east and south of the 6.8 acres described in paragraph II.9, above, as shown in the drawing attached as Exhibit D. Larsen shall, however, be responsible for taxes, assessments, and charges, fees or reasonable other costs associated with the conveyance of this 10.22 gross acres or any portion(s) thereof.
14. Except as provided in this Agreement, no promises, releases or indemnities are made by or on behalf of either party with regard to this 10.22-acre parcel.
15. OMC will relocate the sewer line running to the north of old Slip 3 so that Larsen will be provided with equivalent access to sewer that it possessed at the commencement of construction. Interruption of sewer service to Larsen for purposes of this relocation will be at a time mutually agreed by Larsen and OMC.
16. OMC will pay for 2 soil borings at a mutually agreed location on the 6.8-acre parcel and provide the data therefrom so that Larsen may make a determination regarding the location of a proposed structure on the property.

KMK

LOB

17. Subject to U.S. EPA approval, Larsen will maintain ownership of the buildings designated as E and G on their current property subject to any access agreements or easements described herein and as depicted in Exhibit B.
18. Subject to approval of and issuance of permit(s) by all necessary and appropriate regulatory agencies, OMC agrees to reconfigure the design of the seawall to be constructed on the eastern boundary of existing Slip 3. The easternmost part of this seawall, as currently designed is E 4,769 feet on the Waukegan Harbor site coordinate grid. Said wall shall be moved in a westerly direction so that no part of this seawall shall extend further to the east than E 4,758 feet on that grid. OMC will install stone rip-rap of an appropriate size along this new seawall up to elevation 583.6 USGS. Larsen agrees to pay OMC one-half the cost up to \$70,000 for this redesign and construction.
19. OMC will grant Larsen a conditional easement to establish or relocate a pier for boat fueling and maintenance approximately 10 feet east of the new seawall and extending in a southerly direction to a point approximately 230 feet from the pier's northern juncture with the upper harbor, as depicted on Exhibit E. OMC will have harbor area usage immediately south of this easement as it is depicted on Exhibit E. This easement shall be subject to OMC's continuing obligation to maintain and service the new seawall. Larsen is responsible for all costs of removal and reinstallation of any dock, fuel

KWR

Job

line or other appurtenances on or near this pier should maintenance or repair of the seawall require it. This easement shall automatically terminate upon any assignment, transfer or exchange of ownership or operation of Larsen Marine to a person or entity other than one who would qualify as or in fact is an heir of Kenneth or Jerry Larsen, as determined by Illinois rules regarding descent and distribution, unless otherwise agreed by OMC at that time. Should OMC choose to terminate this easement, then Larsen or its successor shall have a reasonable time to remove or relocate any pier or other improvements established thereon. Further, Larsen and its successors, assigns or heirs agree to indemnify and hold harmless OMC for any contamination which may occur on this property due to their operations on this easement.

20. Larsen agrees to permit OMC to connect their own pier in a southerly direction to the pier established or relocated pursuant to paragraph II.19 above. This pier will include boat slips or docks for OMC's use. Further, Larsen agrees to provide OMC reasonable access thereto by way of the easement provided in paragraph II.19, as well as necessary Larsen property to the north of that pier easement. If the easement established in paragraph II.19, above, is terminated, then this access shall also terminate, unless otherwise agreed by Larsen or its successor.

KWZ

JO

21. Except with respect to obligations created by or arising out of this Settlement Agreement, Larsen and its successors, assigns, affiliates, subsidiaries, officers, and directors release and absolutely and forever discharge OMC and its successor, assigns, affiliates, subsidiaries officers, and directors, from any and all claims, demands, damages, debts, liabilities, accounts, reckonings, obligations, costs, expenses, liens, actions, and causes of action of every kind and nature whatsoever, whether now known or unknown, suspected or unsuspected arising from, or involving any all claims which were or could have been raised pertaining to the remediation of Waukegan Harbor or the Waukegan Manufactured Gas and Coke Plant Site.
22. Except with respect to obligations created by or arising out of this Settlement Agreement, OMC and its successors, assigns, affiliates, subsidiaries, officers, and directors release and absolutely and forever discharge Larsen and its successor, assigns, affiliates, subsidiaries officers, and directors, from any and all claims, demands, damages, debts, liabilities, accounts, reckonings, obligations, costs, expenses, liens, actions, and causes of action of every kind and nature whatsoever, whether now known or unknown, suspected or unsuspected arising from, or involving any all claims which were or could have been raised pertaining to the remediation of Waukegan Harbor or the Waukegan Manufactured Gas and Coke Plant Site.

KWR

JOB

23. Larsen and OMC each respectively represents and warrants that it has not heretofore assigned or transferred, or purported to assign or transfer, to any person, firm, or corporation whatsoever any claim, debt, liability, demand, obligation, cost, expense, damage, action or cause of action herein released.
24. Except with respect to obligations created by or arising out of this Settlement Agreement, Larsen and OMC agree that they will forever refrain and forbear from commencing, instituting, or prosecuting any lawsuit, action, arbitration or other proceeding against the other, based on, arising out of, or in connection with any claim, debt, liability, demand, obligation, cost, expenses, damage, action, or cause of action that is settled or discharged by this Settlement Agreement, including but not limited to any action for business limitation, interruption, impairment, or loss.
25. This Settlement Agreement is not for the benefit of any person not a party hereto or specifically named as a beneficiary herein.
26. This Settlement Agreement, insofar as it affects the settlement of claims which are denied and contested, shall not be construed as an admission by Larsen or OMC of any liability of any kind to the other or to any other person or entity.
27. This Settlement Agreement constitutes the entire agreement and understanding between Larsen and OMC concerning the subject matter hereof, and supersedes and replaces all prior negotiations, proposed agreements, and agreements, written and

KWK

JOB

oral, relating thereto. Larsen and OMC hereby acknowledge that no other party, and no agent or attorney of any other party, has made any promise, representation, or warranty whatever, express or implied, not contained herein concerning the subject matter hereof, to induce it to execute this Settlement Agreement, and acknowledges that it has not executed this Settlement Agreement in reliance on any such promise, representation, or warranty not contained herein. Larsen and OMC acknowledge that they have been represented by legal counsel of each party's own choice throughout all negotiations which preceded the execution of this Settlement Agreement, and have executed this Settlement Agreement with the consent and the advice of such legal counsel.

28. This Settlement Agreement is executed and delivered within the State of Illinois and the rights and obligations of Larsen and OMC hereunder shall be construed and enforced in accordance with and governed by the laws of the State of Illinois.

29. Larsen and OMC, their employees, agents and consultants shall not disclose any information regarding this Settlement Agreement to any other party except:

- (a) as contemplated in this Settlement Agreement,
- (b) to authorized parties, as designated in the Consent Decree lodged in the United States District Court, Northern District of Illinois as part of the case United States of America vs. Outboard Marine Corporation,

KWR

JOB

88C8571, and associated with remediation work being done on Slip 3 pursuant to that Consent Decree,

(c) to the Circuit Court of the Nineteenth Judicial Circuit, Lake County, and to the parties in the civil action pending therein, entitled OMC v. Mutual Insurance Company, et. al., Gen. No. 86MR308, (consolidated with 88CH93 and 88MR322), or

(d) as otherwise compelled by proper civil process.

A violation of this paragraph by either party may give rise to a cause of action for damages.

30. It is agreed by Larsen and OMC that all conveyances, easements or other property identifications and transfers, including those identified by drawings attached hereto, will be fully identified by proper survey either already accomplished or to be done at the time of necessary documentation or recordation of the event.

LARSEN MARINE SERVICES, INC.

OUTBOARD MARINE CORPORATION

By: Kenneth W. Larsen
2/20/91

By: [Signature]

Its: Vice President and Secretary

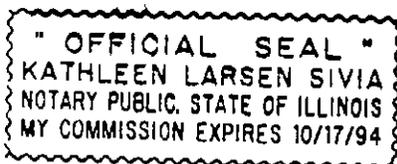
Its: President and Chief Executive Office

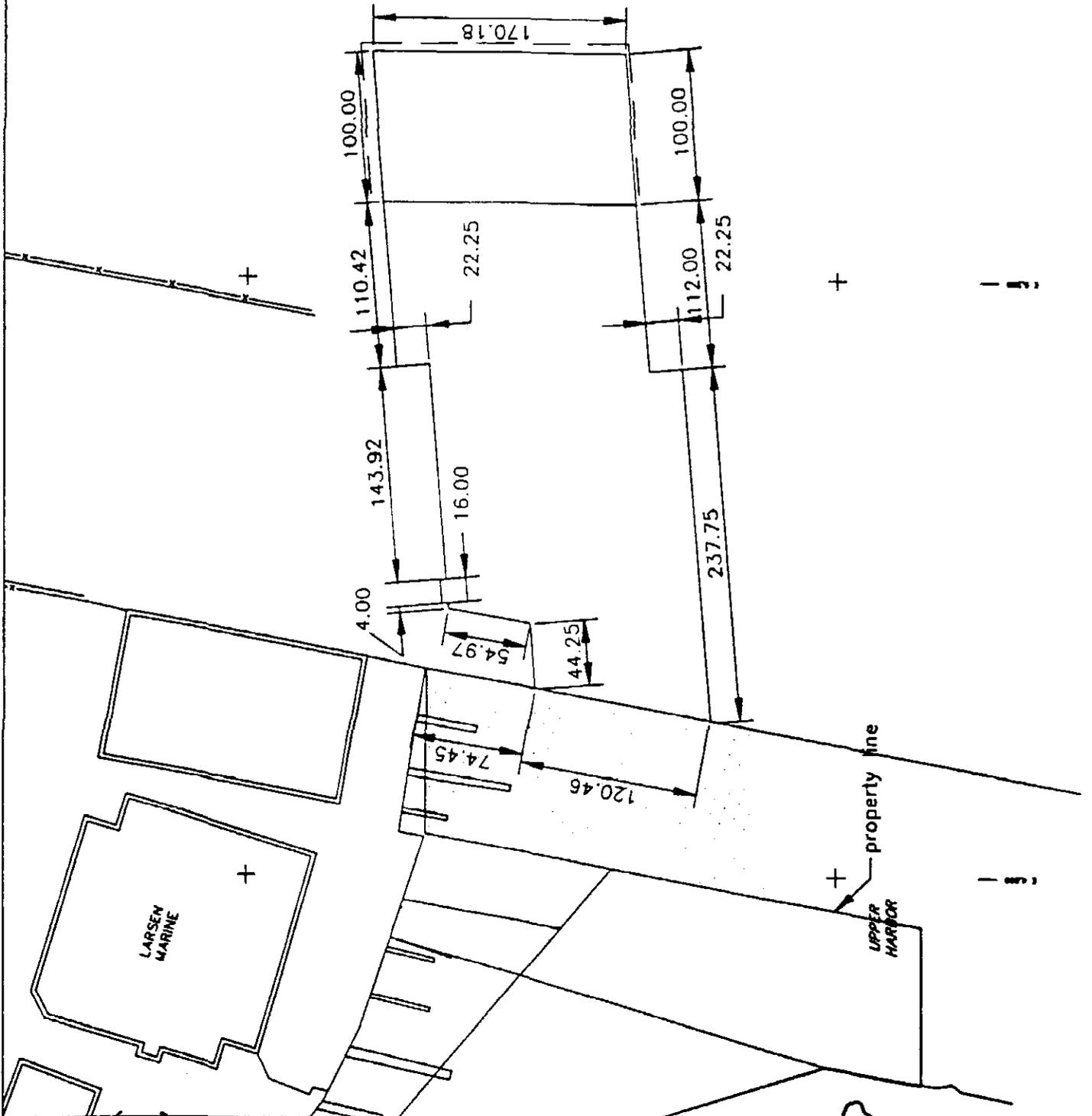
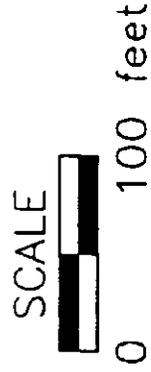
Attest: Kathleen Larsen Sivia

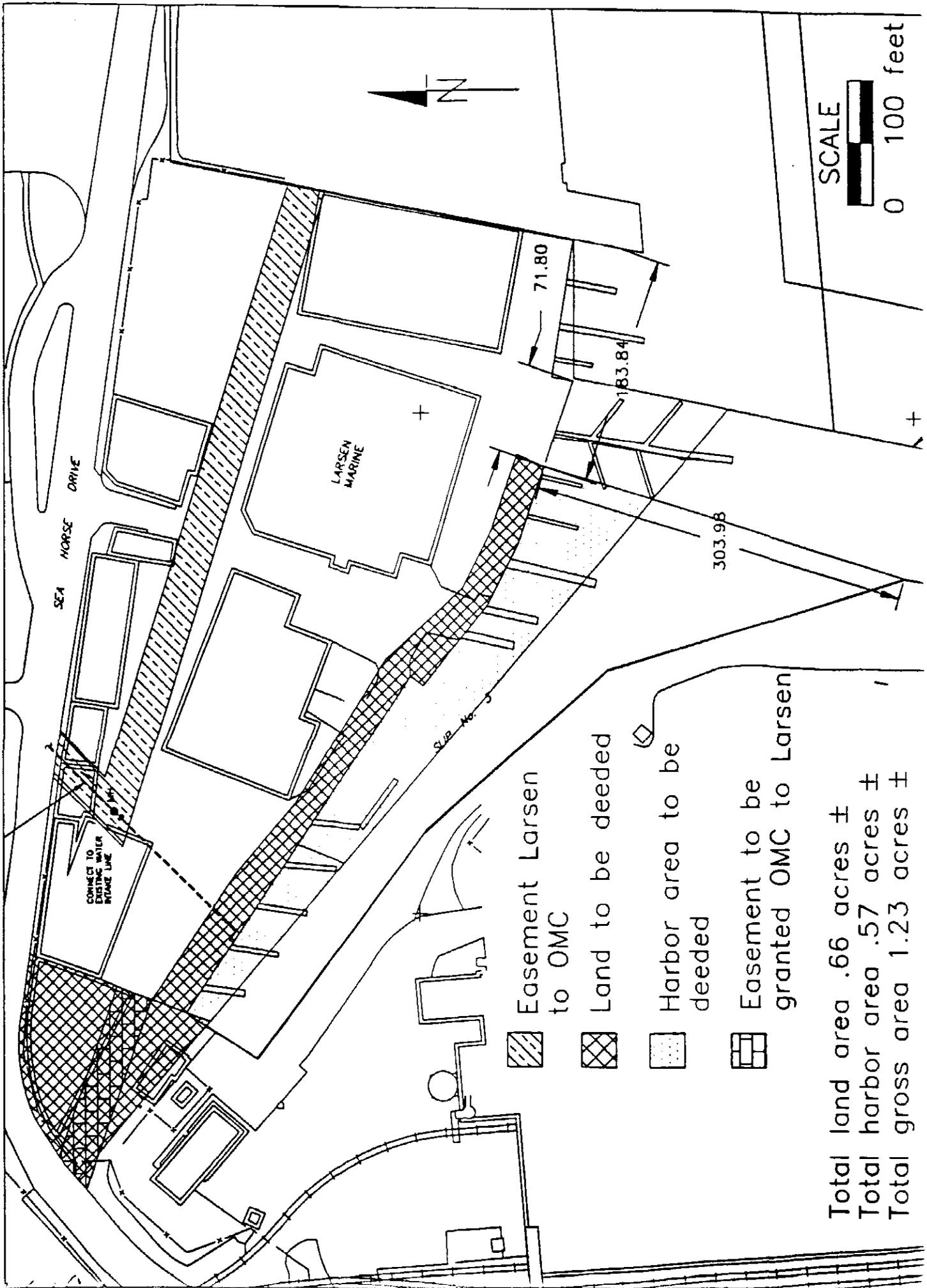
Attest: [Signature]

Notary Public

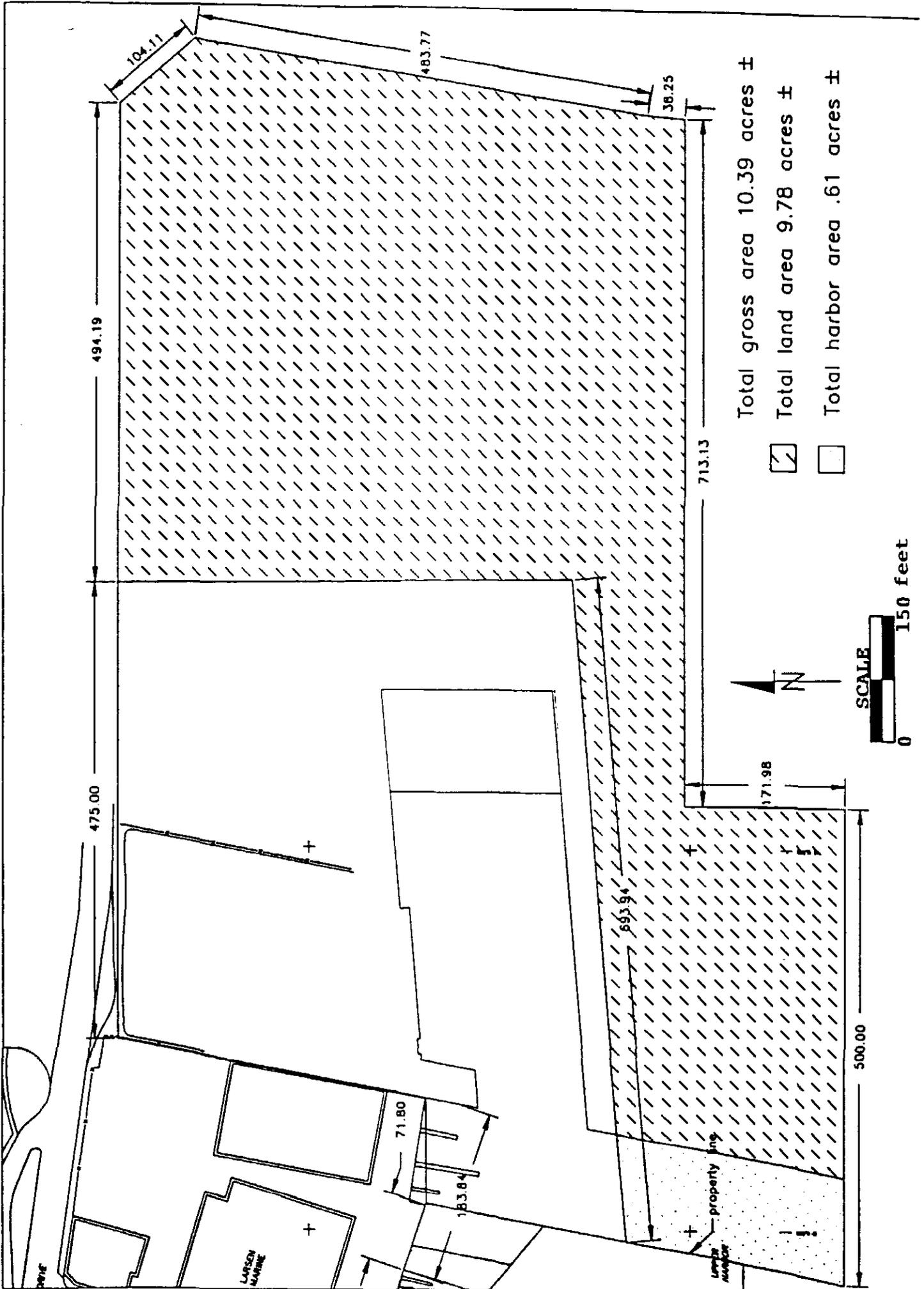
Secretary and Associate General Counsel

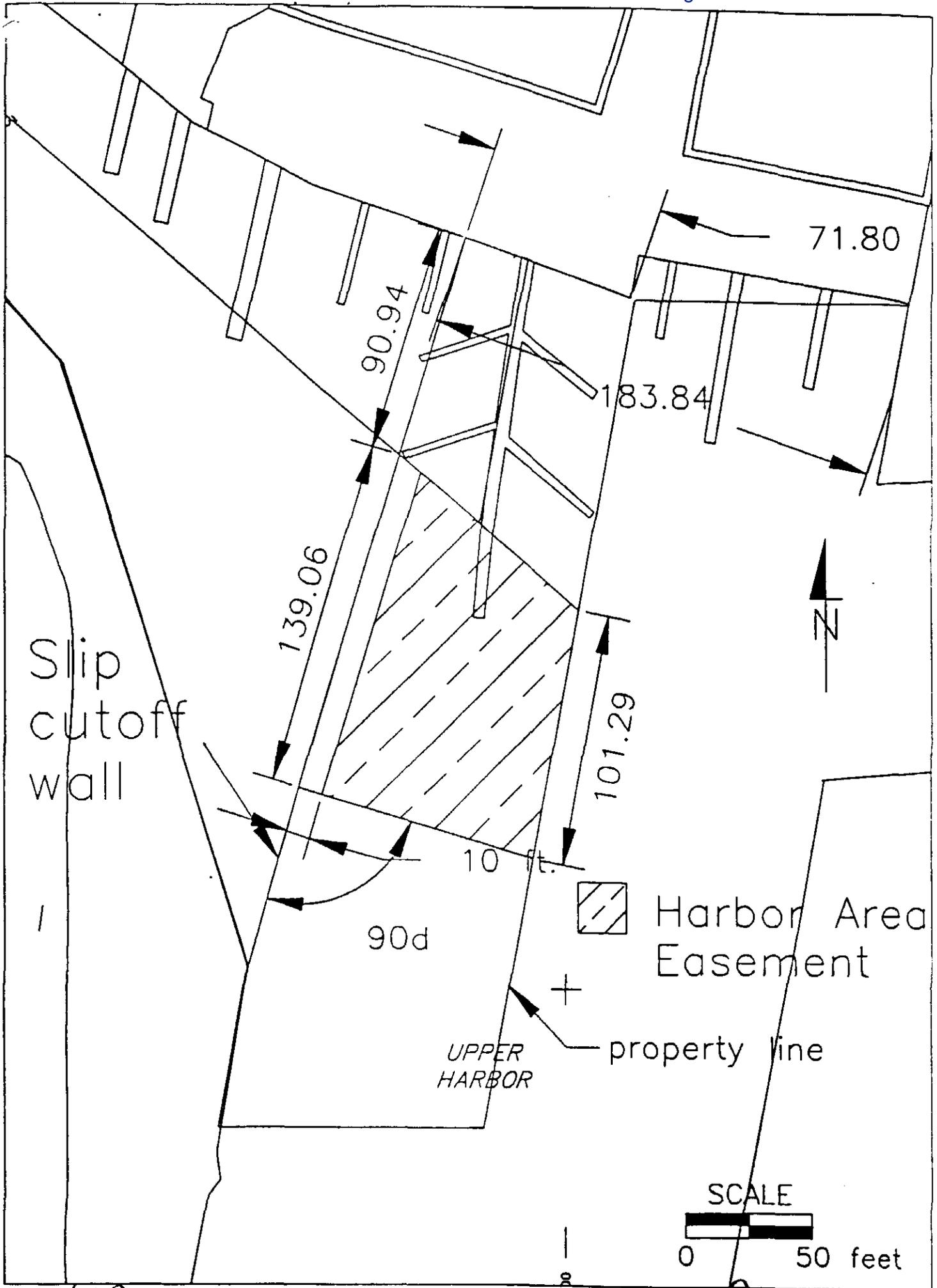






Total land area .66 acres ±
 Total harbor area .57 acres ±
 Total gross area 1.23 acres ±





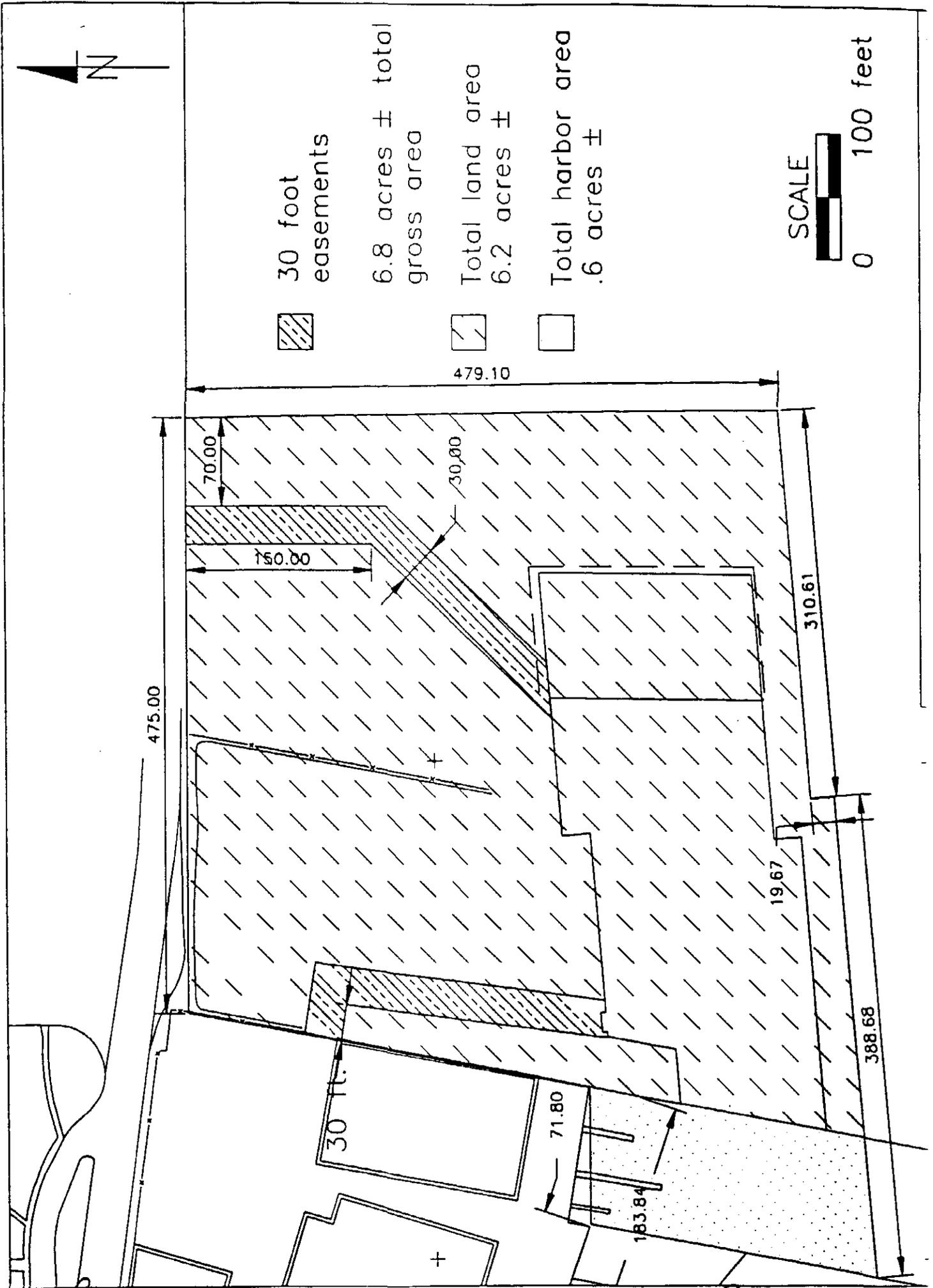


EXHIBIT D
SUMMARY OF
SETTLEMENT AGREEMENT
BETWEEN LARSEN AND CITY

**FINAL SETTLEMENT STIPULATION
LARSEN MARINE SERVICES, INC. v. CITY OF WAUKEGAN (02 MR 1333)
PROPERTY INTEREST SUMMARY**

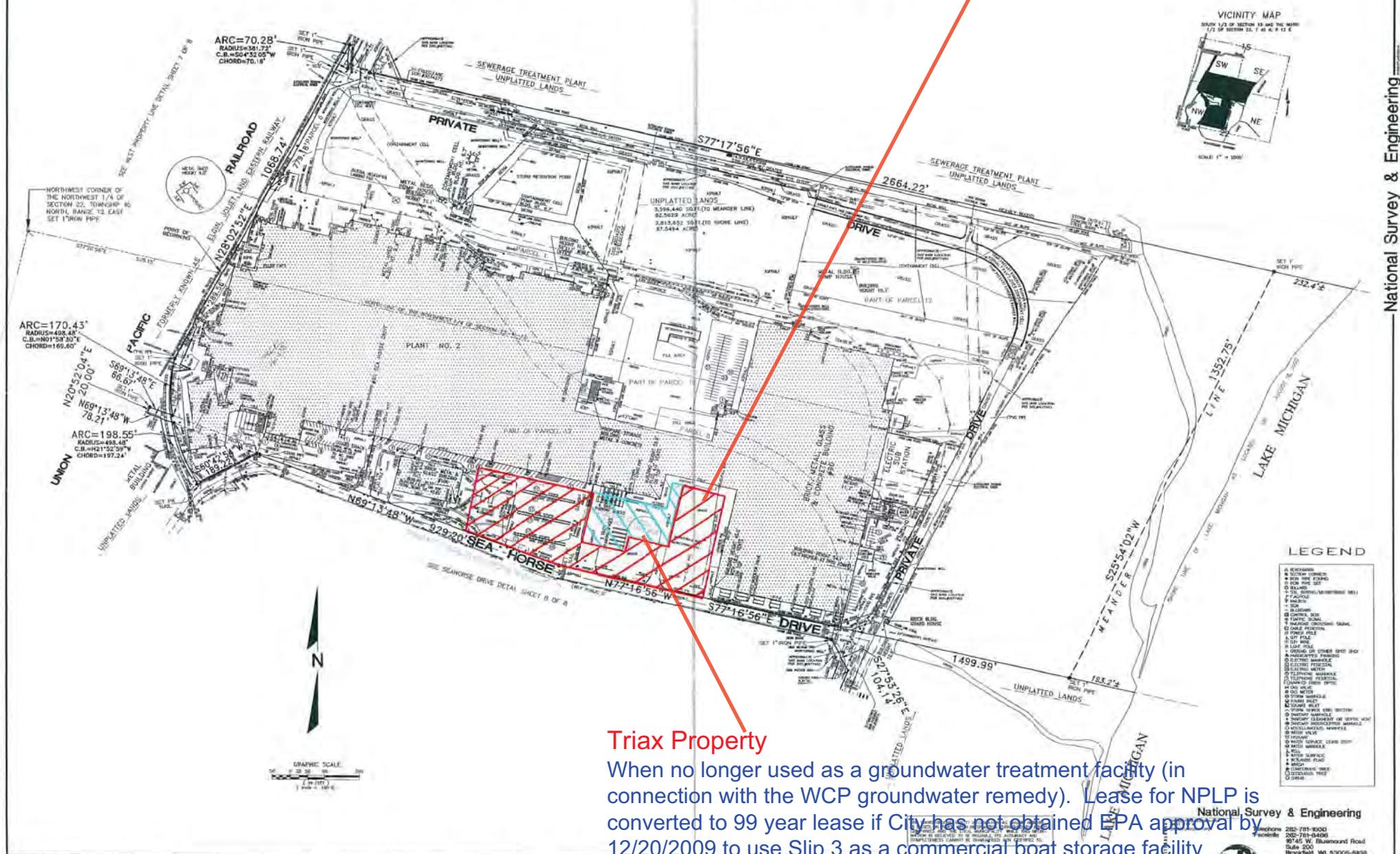
Paragraph in Settlement Agreement Referencing Parcel	Description Given Parcel in Settlement Agreement
9	Slip 3
10	Leased Option Premises
11	Fee Simple Property
12 & 4	Option Property
13	North Plant Leased Premises (or "NPLP")
15	Triax Property

North Plant Leased Premises (NPLP)

Immediate City (lessor), Larsen Marine (lessee); If the City does not obtain EPA approval to use Slip 3 as a commercial boat storage facility by 12/20/2009, the lease is converted to a 99 year term (Condition Precedent).

ALTA/ACSM LAND TITLE SURVEY

SHEET 2 OF 8



Triax Property

When no longer used as a groundwater treatment facility (in connection with the WCP groundwater remedy). Lease for NPLP is converted to 99 year lease if City has not obtained EPA approval by 12/20/2009 to use Slip 3 as a commercial boat storage facility (Condition Precedent).

National Survey & Engineering

National Survey & Engineering

282-781-8000
282-781-8400
8745 W. Blumound Road
Suite 300
Brookfield, WI 53005-0408
www.nse.com

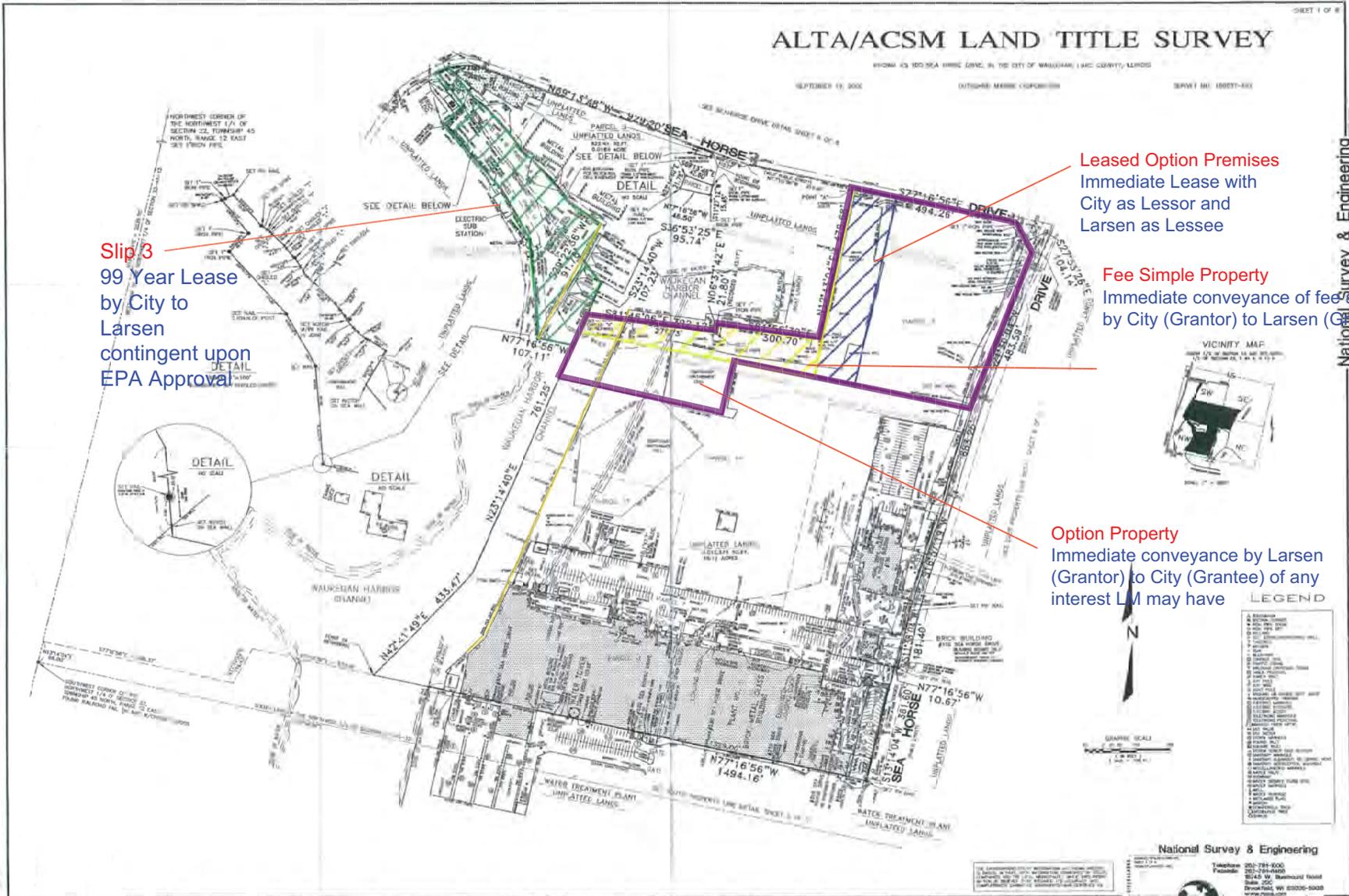


EXHIBIT E
SEPTEMBER 22, 2006
FINAL SETTLEMENT STIPULATION
SETTLING THE 2002 LARSEN ACTION

FILED
SEP 22 2006
CIRCUIT CLERK

IN THE CIRCUIT COURT OF THE NINETEENTH
JUDICIAL CIRCUIT, LAKE COUNTY, ILLINOIS

LARSEN MARINE SERVICES, INC.,)
an Illinois corporation,)
)
Plaintiff,)
)
vs.)
)
CITY OF WAUKEGAN,)
a municipal corporation, WAUKEGAN)
DEVELOPMENT COMMISSION, and)
JOHN DELLAVALE, LUCY RIOS,)
JOSEPH COBURN, MICHAEL)
MELIUS, GLENN MITCHELL, PAM)
KERPEC, DEXTER REID, PETE)
COUVALL, and ROBERT SALATA,)
)
Defendants.)

GEN. NO. 02 MR 1333

FINAL SETTLEMENT STIPULATION

NOW COMES the Plaintiff, Larsen Marine Services, Inc. (hereinafter "Larsen"), by its attorney, Joseph T. Morrison of Morrison & Morrison, P.C., and the Defendant, City of Waukegan (hereinafter "Waukegan"), by its attorney, William P. Anderson of Diver, Grach, Quade & Masini, LLP, and hereby state and agree, based upon the stipulations, conditions, and agreements as hereinafter set forth, that all matters in controversy have been settled and otherwise compromised.

The parties hereby stipulate and agree as follows:

BACKGROUND FACTS

1. In February, 1991, Larsen entered into a settlement agreement with Outboard Marine Corporation.

2. Under II., paragraph 13, of said settlement agreement, Larsen claims to have acquired an option to acquire at no cost a 10.22 acre parcel of land as additional consideration for entering into that settlement agreement.

3. In 2000, Outboard Marine Corporation filed for bankruptcy protection, and in January of 2001, Larsen has alleged that it duly exercised its option to the 10.22 acres of property as referenced in the settlement agreement.

4. A map showing the approximate boundaries of the 10.22 acre parcel of land is attached hereto as Exhibit A, and the legal description of this parcel is attached hereto as Exhibit B, and this parcel of land is hereinafter referred to as "option property."

5. In June of 2002, Waukegan purchased certain property previously owned by Outboard Marine Corporation, including the option property, from the bankruptcy trustee. Waukegan is now claiming ownership of the option property.

6. A dispute has arisen between Larsen and Waukegan in regards to the rezoning of the option property, and as to title and ownership of the option property, and a lawsuit was filed entitled *Larsen Marine Services v. City of Waukegan*, No. 02 MR 133, currently pending in the Circuit Court of Lake County, Illinois.

7. Larsen and the City of Waukegan have now reached an agreement to settle all matters in controversy in the pending litigation and this settlement stipulation shall serve as a settlement and compromise of any and all claims which were raised and all defenses which were or could have been raised in this proceeding.

STIPULATION AND AGREEMENTS OF THE PARTIES

8. The date of this final settlement stipulation is December 20, 2005, per the order of December 20, 2005. (This date is hereinafter referred to as the "Date of Agreement.")

9. The City of Waukegan agrees to lease to Larsen a certain parcel of property west of the option property herein described as Slip 3, as shown on a drawing attached as Exhibit C and as legally described on attached Exhibit D. Slip 3 is currently owned by the City of Waukegan and has been utilized pursuant to a consent decree with the United States Environmental Protection Agency to remediate certain environmental contamination of Waukegan Harbor. Waukegan agrees that it will use its best effort to prepare Slip 3 for marine commercial purposes, including but not limited to all legal, regulatory, and construction steps to prepare to lease Slip #3 to Larsen for marine commercial usage by Larsen Marine, including but not limited to approval by the United States Environmental Protection Agency. The parties agree that the basis for the proposed preparations to Slip 3, shall be the Design Memorandum and drawings attached hereto as Exhibit E, as may be amended by agreement of the parties. The parties have agreed that the Design Memorandum attached hereto as Exhibit E will be amended so that the analysis is based on the assumption of 10,000 pound boats instead of 20,000 pound boats, clarification that Larsen will have the right to install sewer lines along with the water and electric lines, and that Larsen will have the right not only to place a dry rack storage building on the property but also will have the right to use Slip 3

for other marine commercial purposes, including but not limited to boat storage, parking, boat ramps and docks, and underground utilities to service the building. Slip 3 shall be modified so as to permit and allow construction of such buildings, parking and underground utilities, and boat ramps and docks as described in the Design Memorandum. Larsen agrees to cooperate with Waukegan in the construction of said improvements so that any work to be performed below the cover or liner will be performed in conjunction with the work described in the Design Memorandum. Waukegan agrees that Slip #3 will be ready for marine commercial usage by Larsen Marine within three years of the Date of Agreement. As used herein, marine commercial purposes shall be defined as any and all appropriate marine commercial uses of the site, including but not limited to the ability to construct marine buildings and maintain those buildings on site, in accordance with the current zoning of Waukegan in force and effect as of the date of this agreement for such improvements as specified in Exhibit E. Such marine commercial purposes shall also include the right and ability to construct docks and ramps next to and adjacent to existing seawall. These docks and ramps shall be constructed in conformance with applicable state, federal, and local regulations. These docks and ramps shall also be constructed in conformance with the ordinances of Waukegan in force and effect as of the date of this agreement for docks constructed within 8 years of the date of this agreement. The docks and ramps shall not extend beyond the property boundary lines of Larsen or property leased as Slip 3. The cost of construction of any such buildings, utilities, or other structures described in the Design Memorandum to Larsen shall not exceed usual and customary costs of such

construction of such buildings or areas on land in the general area of the "Option Property" which does not consist of fill, and any such additional costs shall be paid by Waukegan. Such marine commercial uses shall also include the right and ability to use Slip 3 for buildings with access to the sea wall for boat launching. Within three years from the Date of Agreement, once Slip 3 is ready for marine commercial usage, Waukegan will enter into a 99-year lease with Larsen as sole tenant, so that Larsen will have the sole and exclusive right to use Slip 3 for marine commercial usage as defined herein. Slip 3 will be re-zoned by the City of Waukegan to M.C.R. or other appropriate zoning classifications to allow and permit the use of Slip 3 for marine commercial purposes as defined herein. The yearly rent will not exceed \$10 per year. Prior to the execution of this 99 year lease, Waukegan will deliver to Larsen a title commitment for \$10,000.00 showing ownership in the name of Waukegan subject only to reasonable exceptions. This 99 year lease shall be substantially in the same form as the draft lease attached hereto as Exhibit F.

10. Waukegan will enter into a lease as lessor with Larsen as lessee for a portion of the option property as shown as on Exhibit G and legally described on Exhibit H attached hereto and hereinafter referred to as "leased option premises", at a rent not to exceed 10 dollars per year. The term of this lease agreement shall extend to that time when a developer has received any and all necessary approvals and permits from Waukegan and any other necessary governmental approvals and permits for a residential and ancillary use development and is actually ready to begin earth work as part of the construction of that residential and ancillary use development. The form of

lease agreement is attached hereto as Exhibit I. Once this new lease agreement is executed, the lease agreement which existed between Larsen and Waukegan prior to this Stipulation will be terminated for said parcel. Waukegan shall provide written notice of at least 120 days prior to terminating this new lease due to the development as set forth herein. Larsen shall have the right to fence these new leased option premises, but shall not have the right to construct any buildings on said parcel. Larsen will have the right to use said parcel for marine commercial purposes, and such uses shall be considered legal non-conforming uses and permitted by Waukegan.

11. Waukegan agrees to immediately convey by warranty deed a strip of land along the east boundary of the Larsen Marine property and additional real property along the south boundary of the Larsen Marine property as shown on Exhibit J and legally described on Exhibit K and hereinafter referred to as "fee simple property." This conveyance shall occur on or before October 13, 2006. Waukegan agrees to provide a title commitment in the amount of \$10,000.00 for the fee simple property from Chicago Title Insurance Company prior to this conveyance, subject to reasonable title exceptions. If this title commitment shows exceptions to title which are reasonably unacceptable to Larsen, then the parties agree to take all reasonable steps to remove those title exceptions. The City of Waukegan will take all necessary steps to re-zone this property to M.C.R., the same classification as Larsen's adjoining and existing property.

12. Larsen agrees to quit claim any and all interest it may have in the option property to Waukegan, with the exception of its lease rights in the leased option premises, and with exception to the fee simple property. Larsen shall deliver this quit

claim deed contemporaneously with the delivery of Waukegan's deed for the fee simple property.

13. Waukegan agrees to lease to Larsen approximately 3.26 acres of land immediately across Sea Horse Drive adjacent and north of the existing Larsen Marine property, as shown on Exhibit L and legally described on Exhibit M and hereinafter referred to as "north plant leased premises". The rent for this parcel of land will not exceed \$10 per year. The form of lease is attached as Exhibit N . Larsen shall have sole and exclusive right to use the north plant leased premises for marine commercial uses, subject only to : (1) the existing reasonable easements and restrictions of record, and (2) reasonable rights of access, for the construction, operation, and maintenance for the proposed ground water treatment facility. This lease shall be in effect until Slip 3 has been prepared for use by Larsen pursuant to paragraph 9 above and the lease agreement has been entered into for Slip 3 with Larsen. In addition for the next three years, Larsen shall not have the right to construct any permanent structures or buildings on the north plant leased premises. Larsen will have the right to use the north plant lease premises for other marine commercial purposes, including boat storage, and shall have the right to fence the north plant leased premises. Such uses shall be considered legally non-conforming uses and permitted by Waukegan.

14. If Slip 3 is not ready for marine commercial usage by Larsen within three years from the Date of Agreement, then, at the option of Larsen, that three-year period may be extended for up to an additional two years, and at the option of Waukegan, the three- year period may be extended for up to one additional year.

15. If Slip 3 is not ready for marine commercial usage as defined herein by Larsen within the three year period, or any extension thereof pursuant to the above paragraph, then the lease of the north plant leased premises (NPLP) referred to above shall be converted into a long term, 99 year lease at a rental not to exceed \$10 per year, with Larsen having the right to build buildings and otherwise use that parcel for marine commercial usage. At that time, that parcel of land will be re-zoned for marine commercial usage by Waukegan. In the event the NPLP lease is converted into a 99 year lease as provided for herein; then at such time as the adjacent Triax property, which is depicted on Exhibit O and legally described on Exhibit P, is no longer used as a groundwater treatment facility, Waukegan agrees to lease the Triax property to Larsen as additional leased premises under the NPLP lease and rezone for marine commercial usage.

16. Time is of the essence, and the dates as stated herein will not be extended or continued without the express written agreement of all parties.

17. If Larsen does not obtain a lease for marine commercial usage of Slip 3 pursuant to paragraph 8 above, and if the lease of the north plant leased premises has been converted to a long term lease pursuant to paragraph 15 above, then Larsen will have a right of first refusal with respect to any future lease, use, or proposed development of Slip 3. If Waukegan or other governmental body proposes to allow Slip 3 to be leased or used by a private person or entity for any type of development or use, then prior to any approval of such development or use, Slip 3 shall first be offered for use

to Larsen in writing. This offer shall contain all usual and ordinary terms of a lease and the proposed rent shall be at the market value for such property for the proposed use. Failure by Larsen to give written notice of accepting said offer within ^{30 calendar days} ~~14~~ days of receiving the offer by Waukegan shall terminate this right of first refusal. If Larsen does elect to lease Slip 3 and elects to exercise its right of first refusal, then Waukegan or other governmental body in title shall provide evidence of good title and evidence that Slip 3 is suitable for proposed marine commercial usage by Larsen and such title holder shall enter into a long term 30 year lease with Larsen, with Larsen having the option to extend this lease for two additional 30 year terms.

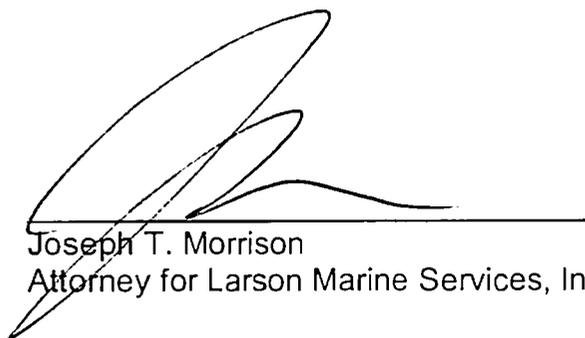
18. Waukegan agrees to relocate or remove overhead utility lines between the north plant leased premises and existing Larsen property directly across Sea Horse Drive to the south so as to allow movement of sailboats with masts up from Larsen's current property to the north plant leased premises if and when such premises are converted to a long term lease.

19. Waukegan had previously adopted an ordinance, No. 01-0-123, authorizing the acquisition of certain real property, including the option property, through the use of its eminent domain power. As part of the consideration of this Stipulation, Waukegan now agrees that it will not attempt to exercise its power of eminent domain for economic development or any other re-development project of any type or nature to acquire any property rights in any of the existing real estate owned by Larsen or Larsen Storage LLC, or any real estate, leasehold interests or any other property rights acquired by Larsen under this agreement. The Larsen Real Estate which is subject to this paragraph is

described as P.I.N. 08-22-100-051, 08-22-100-054, and 08-22-100-048, and shown on Exhibit Q.

20. The parties agree that the pending litigation will be dismissed with prejudice, with the Court retaining jurisdiction to enforce the terms of this settlement stipulation.

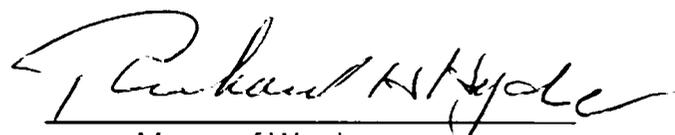
21. By their signature below, the attorneys herein state and agree that they have been fully authorized to execute this settlement stipulation by their respective clients.



Joseph T. Morrison
Attorney for Larson Marine Services, Inc.



William P. Anderson
Attorney for City of Waukegan



Richard H. Hyde
Mayor of Waukegan

Joseph T. Morrison
MORRISON & MORRISON, P.C.
32 N. West Street
Waukegan, Illinois 60085
847/244-2660
Attorney No. 6182078

EXHIBIT A

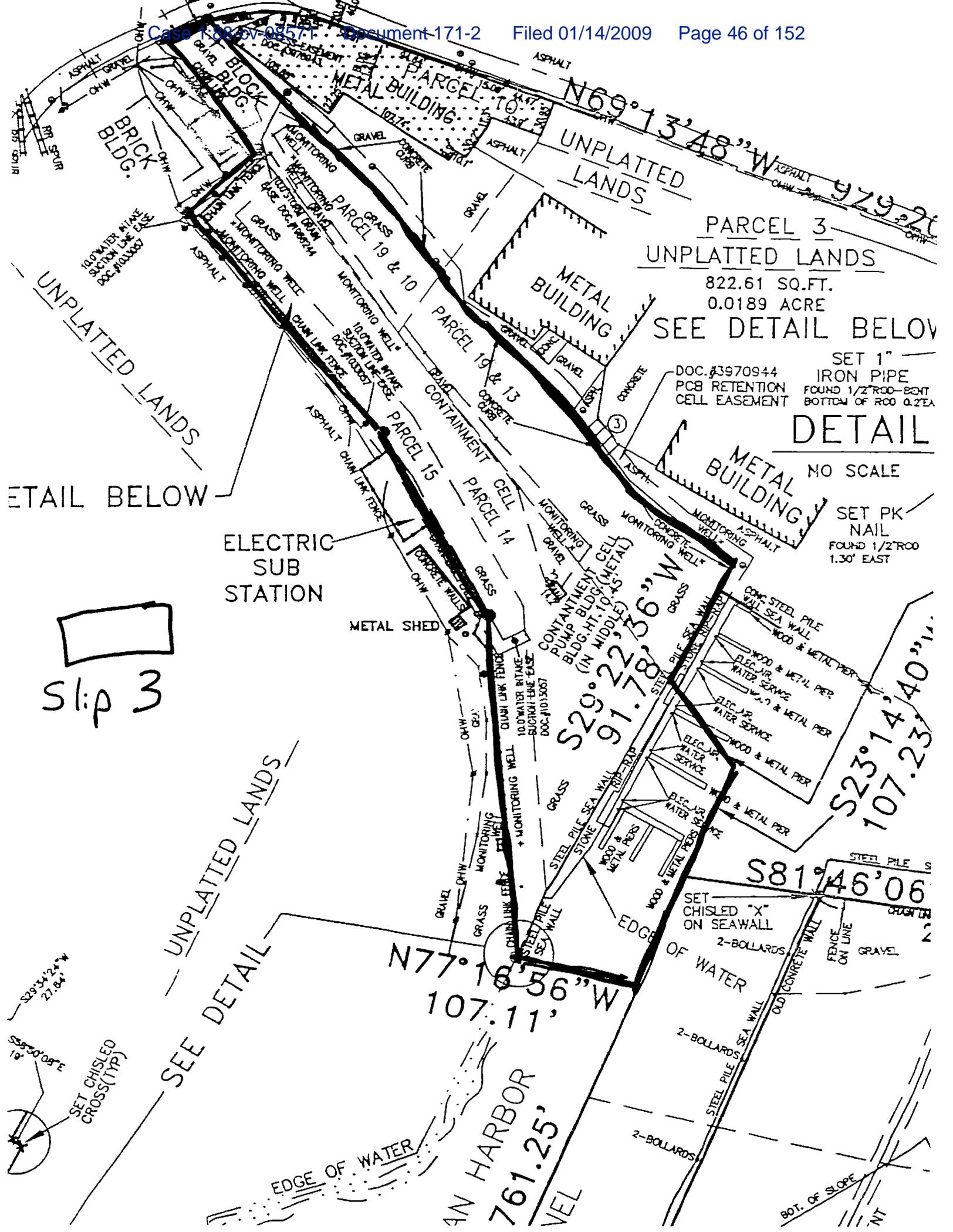
EXHIBIT B

PARCEL 1:

A TRACT OF LAND IN THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 45 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST 1/4; THENCE NORTHEASTERLY MAKING A NORTHEAST ANGLE OF 89 DEGREES 29 MINUTES WITH THE EAST AND WEST QUARTER LINE OF SAID SECTION 22, TO A POINT ON THE NORTH LINE OF CITY STREET, 66 FEET FROM, MEASURED AT RIGHT ANGLES, THE EAST AND WEST QUARTER OF SAID SECTION 22; THENCE EAST WITH AND ALONG THE NORTH LINE OF SAID CITY STREET, PARALLEL WITH THE EAST AND WEST CENTER LINE OF SAID SECTION 22, 585.37 FEET TO A POINT ON THE NORTHWESTERLY LINE OF HARBOR STREET; THENCE NORTHEASTERLY WITH AND ALONG SAID NORTHWESTERLY LINE OF HARBOR STREET AND MAKING A NORTHEASTERLY ANGLE OF 75 DEGREES 12 MINUTES 10 SECONDS WITH THE LAST DESCRIBED COURSE EXTENDED EAST, 119.43 FEET TO A POINT; THENCE EAST, PARALLEL WITH AND 181.47 FEET FROM, AS MEASURED AT RIGHT ANGLES, THE SAID CENTER LINE OF SECTION 22, 373.61 FEET TO A POINT; THENCE NORTHEASTERLY MAKING A NORTHEASTERLY ANGLE OF 60 DEGREES 01 MINUTES 15 SECONDS WITH THE LAST DESCRIBED COURSE EXTENDED EAST 417.44 FEET TO A POINT WHICH IS 543.06 FEET NORTH (MEASURED AT RIGHT ANGLES) OF THE EAST AND WEST CENTER LINE OF SECTION 22, AFORESAID, WHICH FOR THE PURPOSE OF REFERENCE IN THIS DESCRIPTION IS HEREINAFTER REFERRED TO AS AN EAST AND WEST LINE HAVING A BEARING OF NORTH 90 DEGREES EAST OR NORTH 90 DEGREES WEST; CONTINUING THENCE NORTH 29 DEGREES 58 MINUTES 45 SECONDS EAST ALONG THE LAST DESCRIBED LINE EXTENDED NORTHEASTERLY, A DISTANCE OF 16.03 FEET TO A POINT; THENCE NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST A DISTANCE OF 649.64 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST A DISTANCE OF 450.05 FEET MORE OR LESS, TO A POINT WHICH IS 330.51 FEET SOUTH 10 DEGREES 31 MINUTES 36 SECONDS WEST FROM THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED BY WILLIAM H. BAEHR ON MARCH 14, 1927 AS DOCUMENT 295716; THENCE NORTH 90 DEGREES EAST, 110.10 FEET TO A POINT; THENCE NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST, A DISTANCE OF 330.51 FEET TO THE NORTH LINE OF THE TRACT DESCRIBED IN DOCUMENT 295716, BEING A POINT ON THE LINE DRAWN PARALLEL WITH THE EAST AND WEST CENTER LINE OF SECTION 22 AND 1420.0 FEET NORTH OF THE POINT OF BEGINNING (MEASURED ALONG A LINE DRAWN AT RIGHT ANGLES TO THE EAST AND WEST CENTER LINE THROUGH SAID POINT OF BEGINNING); THENCE NORTH 90 DEGREES EAST, ALONG THE LAST DESCRIBED LINE HEREINAFTER REFERRED TO AS COURSE "A", A DISTANCE OF 1049.26 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "A"; THENCE SOUTH 08 DEGREES 47 MINUTES WEST ALONG A COURSE HEREINAFTER REFERRED TO AS COURSE "B", A DISTANCE OF 563.59 FEET TO A POINT; THENCE SOUTH 03 DEGREES 54 MINUTES 15 SECONDS WEST, A DISTANCE OF 38.25 FEET TO A POINT; THENCE NORTH 90 DEGREES WEST, 713.13 FEET TO A POINT; THENCE SOUTH 00 DEGREES EAST 171.98 FEET TO A POINT; THENCE NORTH 90 DEGREES WEST, 500.0 FEET, MORE OR LESS, TO THE POINT OF BEGINNING (EXCEPTING FROM THE ABOVE DESCRIBED TRACT, A TRIANGULAR SHAPED TRACT DESCRIBED AS COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT AT "POINT A"; THENCE SOUTH 08 DEGREES 47 MINUTES WEST, ALONG "COURSE B", 80.0 FEET TO A POINT; THENCE NORTHWESTERLY, A DISTANCE OF 104.14 FEET TO A POINT ON "COURSE A" WHICH IS 80.0 FEET NORTH 90 DEGREES WEST FROM "POINT A"; THENCE NORTH 90 DEGREES EAST, ALONG "COURSE A", A DISTANCE OF 80.0 FEET TO THE POINT OF BEGINNING) AND ALSO (EXCEPTING THEREFROM A TRACT OF LAND IN THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 45 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST 1/4; THENCE NORTHEASTERLY MAKING A NORTHEAST

ANGLE OF 89 DEGREES 29 MINUTES WITH THE EAST AND WEST QUARTER LINE OF SAID SECTION 22, TO A POINT ON THE NORTH LINE OF CITY STREET, 66 FEET FROM, MEASURED AT RIGHT ANGLES, THE EAST AND WEST QUARTER OF SAID SECTION 22; THENCE EAST WITH AND ALONG THE NORTH LINE OF SAID CITY STREET, PARALLEL WITH THE EAST AND WEST CENTER LINE OF SAID SECTION 22, 585.37 FEET TO A POINT ON THE NORTHWESTERLY LINE OF HARBOR STREET; THENCE NORTHEASTERLY WITH AND ALONG SAID NORTHWESTERLY LINE OF HARBOR STREET AND MAKING A NORTHEASTERLY ANGLE OF 75 DEGREES 12 MINUTES 10 SECONDS WITH THE LAST DESCRIBED COURSE EXTENDED EAST, 119.43 FEET TO A POINT; THENCE EAST, PARALLEL WITH AND 181.47 FEET FROM, MEASURED AT RIGHT ANGLES, THE SAID CENTER LINE OF SAID SECTION 22, 373.61 FEET TO A POINT; THENCE NORTHEASTERLY MAKING A NORTHEASTERLY ANGLE OF 60 DEGREES 01 MINUTES 15 SECONDS WITH THE LAST DESCRIBED COURSE EXTENDED EAST, 417.44 FEET TO A POINT WHICH IS 543.06 FEET NORTH, MEASURED AT RIGHT ANGLES, OF THE EAST AND WEST CENTER LINE OF SECTION 22, AFORESAID, WHICH IS FOR THE PURPOSE OF REFERENCE IN THIS DESCRIPTION IS HEREINAFTER REFERRED TO AS AN EAST AND WEST LINE HAVING A BEARING OF NORTH 90 DEGREES EAST OR NORTH 90 DEGREES WEST; CONTINUING THENCE NORTH 29 DEGREES 58 MINUTES 45 SECONDS EAST ALONG THE LAST DESCRIBED LINE EXTENDED NORTHEASTERLY, A DISTANCE OF 16.03 FEET TO A POINT; THENCE NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST, A DISTANCE OF 649.64 FEET TO A POINT, SAID POINT HEREINAFTER REFERRED TO AS POINT "A" FOR PURPOSES OF THIS DESCRIPTION; THENCE CONTINUING NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST, A DISTANCE OF 215.22 FEET MORE OR LESS TO A POINT, SAID POINT BEING THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE CONTINUING NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST, 234.83 FEET TO A POINT WHICH IS 330.51 FEET SOUTH 10 DEGREES 31 MINUTES 36 SECONDS WEST FROM THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED BY WILLIAM H. BAEHR ON MARCH 14, 1927 AS DOCUMENT 295716; THENCE NORTH 90 DEGREES EAST, 110.10 FEET TO A POINT; THENCE NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST, A DISTANCE OF 330.51 FEET TO THE NORTH LINE OF THE TRACT DESCRIBED IN DOCUMENT 295716, BEING A POINT ON A LINE DRAWN PARALLEL WITH THE EAST AND WEST CENTER LINE OF SECTION 22 AND 1420.0 FEET NORTH OF POINT "A" (MEASURED ALONG A LINE DRAWN AT RIGHT ANGLES TO THE EAST AND WEST CENTER LINE THROUGH SAID POINT "A"); THENCE NORTH 90 DEGREES EAST, 475.00 FEET TO A POINT; THENCE SOUTH 00 DEGREES EAST, 478.68 FEET TO A POINT; THENCE SOUTH 85 DEGREES 20 MINUTES 26 SECONDS WEST, 300.70 FEET TO A POINT; THENCE SOUTH 06 DEGREES 08 MINUTES 25 SECONDS EAST, 22.17 FEET TO A POINT; THENCE SOUTH 85 DEGREES 30 MINUTES 50 SECONDS WEST, 392.25 FEET MORE OR LESS TO THE POINT OF BEGINNING), IN LAKE COUNTY, ILLINOIS.

EXHIBIT C



UNPLATTED LANDS
PARCEL 3
UNPLATTED LANDS
822.61 SQ.FT.
0.0189 ACRE
SEE DETAIL BELOW

SET 1" IRON PIPE
FOUND 1/2" ROD-EAST
BOTTOM OF ROD 0.2EA
DETAIL

NO SCALE

SET PK NAIL
FOUND 1/2" ROD
1.30' EAST

Slip 3

UNPLATTED LANDS
SEE DETAIL

N77°16'36"W
107.11'

AN HARBOR
761.25'
VEL

S29°22'36"W
91.78'

S23°14'40"W
107.23'

S81°46'06"

EDGE OF WATER

EDGE OF WATER

2-BOLLARDS

2-BOLLARDS

BOT. OF SLOPE

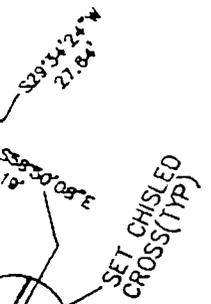


EXHIBIT D

~~PARCEL 13~~ THAT PART OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 45 NORTH, RANGE 12, EAST OF THE MERIDIAN DESCRIBED AS FOLLOWS, COMMENCING AT A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF A PUBLIC ROADWAY COMMONLY KNOWN AS PERSHING ROAD, SAID ROAD BEING THE SOUTHEASTERLY CORNER OF THE PROPERTY DEDICATED BY THE ELGIN, JOLIET AND EASTERN RAILWAY COMPANY TO THE CITY OF WAUKEGAN BY DEED DATED OCTOBER 29, 1953, AND RECORDED AS DOCUMENT 809018, BOOK 1214, PAGE 579; THENCE WESTERLY ALONG THE SOUTHERLY RIGHT OF WAY LINE OF SAID PERSHING ROAD, 271.86 FEET TO A POINT; THENCE SOUTHERLY ALONG A LINE FORMING AN INTERIOR ANGLE OF 81 DEGREES 49 MINUTES TO THE LAST DESCRIBED COURSE, 70.99 FEET TO A POINT; THENCE WESTERLY, ON A CURVE CONVEX TO THE SOUTH HAVING A RADIUS OF 175 FEET AND BEGINNING TANGENT WHICH

FORMS AN ANGLE OF 74 DEGREES 31 MINUTES 40 SECONDS RIGHT TO THE LAST DESCRIBED COURSE EXTENDED AN ARC DISTANCE OF 104.56 FEET TO POINT 82 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 101 FEET TO A POINT 64 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 47 FEET TO A POINT 54 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE WESTERLY A DISTANCE OF 53 FEET TO A POINT 39 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 45 FEET TO A POINT 24 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 64.86 FEET TO A POINT ON SAID SOUTHERLY LINE OF PERSHING ROAD; THENCE WESTERLY, ALONG SAID SOUTHERLY LINE OF PERSHING ROAD, 66.6 FEET TO A POINT OF CURVE; THENCE CONTINUING WESTERLY, ALONG THE SOUTHERLY LINE OF PERSHING ROAD, ON A CURVE CONVEX TO THE NORTHWEST HAVING A RADIUS OF 153.58 FEET, AN ARC DISTANCE OF 133.16 FEET TO A POINT; THENCE SOUTHWESTERLY, TANGENT TO THE END POINT OF THE LAST DESCRIBED COURSE, 11.5 FEET TO A POINT; THENCE SOUTHEASTERLY, ALONG A LINE FORMING AN ANGLE OF 82 DEGREES 23 MINUTES 41 SECONDS, TO THE RIGHT OF THE LAST DESCRIBED COURSE, AND WHICH, FOR THE PURPOSES OF THIS DESCRIPTION, SHALL HAVE AN ASSUMED BEARING OF SOUTH 49 DEGREES 41 MINUTES 38 SECONDS EAST, 329.35 FEET, TO THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE CONTINUING SOUTH 49 DEGREES 41 MINUTES 38 SECONDS EAST ALONG THE LAST DESCRIBED COURSE, 478.58 FEET, MORE OR LESS, TO ITS INTERSECTION WITH A LINE BEARING NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST, HEREINAFTER REFERRED TO AS "COURSE A", THE SOUTHERLY TERMINUS OF SAID "COURSE A" MORE PARTICULARLY DESCRIBED AS FOLLOWS: (COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST CORNER OF SAID NORTHWEST 1/4 IN SECTION 22 AFORESAID; THENCE NORTHEASTERLY MAKING A NORTHEAST ANGLE OF 89 DEGREES 29 MINUTES WITH THE EAST AND WEST QUARTER LINE OF SAID SECTION 22, TO A POINT ON THE NORTH LINE OF CITY STREET, 66 FEET FROM, MEASURED AT RIGHT ANGLES, THE EAST AND WEST QUARTER LINE OF SAID SECTION 22; THENCE EAST WITH AND ALONG THE NORTH LINE OF SAID CITY STREET, PARALLEL WITH THE EAST AND WEST CENTER OF SAID SECTION 22, 585.37 FEET TO A POINT ON THE NORTHWESTERLY LINE OF HARBOR STREET; THENCE NORTHEASTERLY WITH AND ALONG SAID NORTHWESTERLY LINE OF HARBOR STREET AND MAKING A NORTHEASTERLY ANGLE OF 75 DEGREES 12 MINUTES 10 SECONDS WITH THE LAST DESCRIBED COURSE EXTENDED EAST, 119.43 FEET TO A POINT; THENCE EAST, PARALLEL WITH AND 181.47 FEET FROM, MEASURED AT RIGHT ANGLES, THE SAID CENTER LINE OF SECTION 22, 373.61 FEET TO A POINT; THENCE NORTHEASTERLY MAKING A NORTHEASTERLY ANGLE OF 60 DEGREES 01 MINUTES 15 SECONDS WITH THE LAST DESCRIBED COURSE EXTENDED EAST 417.44 FEET TO A POINT WHICH IS 543.06 FEET NORTH (MEASURED AT RIGHT ANGLES) OF THE EAST AND WEST CENTER LINE OF SECTION 22, AFORESAID, WHICH FOR THE PURPOSES OF REFERENCE IN THIS DESCRIPTION IS HEREINAFTER REFERRED TO AS AN EAST AND WEST LINE HAVING A BEARING OF NORTH 90 DEGREES EAST OR NORTH 90 DEGREES WEST; CONTINUING THENCE NORTH 29 DEGREES 58 MINUTES 45 SECONDS EAST ALONG THE LAST DESCRIBED LINE EXTENDED NORTHEASTERLY, A DISTANCE OF 16.03 FEET TO THE SOUTHERLY TERMINUS OF SAID "COURSE A" HEREIN BEING DESCRIBED); THENCE NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST, ALONG SAID COURSE A", 126.89 FEET, MORE OR LESS, TO A POINT WHICH IS 330.51 FEET SOUTH 10 DEGREES 31 MINUTES 36 SECONDS WEST FROM THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED BY WILLIAM H. BAEHR ON MARCH 14, 1927 AS DOCUMENT 295716; THENCE NORTH 90 DEGREES EAST 109.39 FEET TO THE WEST FACE OF THE SEAWALL LINING THE EAST SIDE OF THE WAUKEGAN HARBOR; THENCE NORTH 10 DEGREES 31 MINUTES 24 SECONDS EAST, ALONG SAID SEAWALL 1.79 FEET, TO AN ANGLE POINT THEREON; THENCE NORTH 81 DEGREES 09 MINUTES 18 SECONDS WEST, ALONG SAID SEAWALL, 109.99 FEET TO AN ANGLE POINT THEREOF; THENCE SOUTH 08 DEGREES 44 MINUTES 17 SECONDS WEST ALONG SAID SEAWALL, 17.67 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 71 DEGREES 11 MINUTES 40 SECONDS WEST, ALONG SAID

SEAWALL, 100.00 FEET, TO AN ANGLE POINT THEREON; THENCE NORTH 02 DEGREES 42 MINUTES 47 SECONDS WEST, ALONG SAID SEAWALL, 60.97 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 13 DEGREES 09 MINUTES 57 SECONDS EAST, ALONG SAID SEAWALL 75.35 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 55 DEGREES 10 MINUTES 09 SECONDS WEST ALONG SAID SEAWALL 75.35 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 37 DEGREES 25 MINUTES 29 SECONDS EAST ALONG SAID SEAWALL, 12.51 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 56 DEGREES 11 MINUTES 02 SECONDS WEST, ALONG SAID SEAWALL, 162.40 FEET, MORE OR LESS, TO A POINT LYING NORTH 21 DEGREES 21 MINUTES 38 SECONDS EAST 41.10 FEET FROM THE POINT OF BEGINNING; THENCE SOUTH 21 DEGREES 21 MINUTES 38 SECONDS WEST, 41.10 FEET TO THE POINT OF BEGINNING (EXCEPT THOSE PARTS FALLING WITHIN PARCEL 19 HEREIN), IN LAKE COUNTY, ILLINOIS.

PARCEL 14 THAT PART OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 45 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 22; THENCE NORTH, ALONG THE WEST LINE OF SAID SECTION 22, 66 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF A PUBLIC ROADWAY COMMONLY KNOWN AS CITY STREET; THENCE EASTERLY ALONG A LINE FORMING AN INTERIOR ANGLE OF 90 DEGREES 31 MINUTES TO THE LAST DESCRIBED COURSE AND PARALLEL WITH THE EAST AND WEST CENTERLINE OF AFORESAID SECTION 22, 340 FEET TO A POINT ON THE EASTERLY LINE OF A 40 FOOT STRIP OF LAND CONVEYED TO THE CITY OF WAUKEGAN BY THE ELGIN, JOLIET AND EASTERN RAILWAY COMPANY BY DEED OF DEDICATION DATED JUNE 17, 1952; THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID 40 FOOT STRIP OF LAND DEDICATED TO THE CITY OF WAUKEGAN AND PARALLEL WITH THE WEST LINE OF AFORESAID SECTION 22, 424.13 FEET; THENCE NORTHWESTERLY ALONG A LINE 17 DEGREES 58 MINUTES LEFT TO THE LAST DESCRIBED COURSE 322.83 FEET; THENCE NORTHERLY ALONG A LINE 17 DEGREES 47 MINUTES RIGHT TO THE LAST DESCRIBED COURSE 5.23 FEET; THENCE CONTINUING NORTHERLY TANGENT TO THE LAST DESCRIBED COURSE, 155.69 FEET; THENCE NORTHEASTERLY, ALONG A LINE 27 DEGREES 00 MINUTES RIGHT TO THE LAST DESCRIBED COURSE, 466.37 FEET; THENCE CONTINUING NORTHEASTERLY ALONG A LINE 03 DEGREES 56 MINUTES LEFT TO THE LAST DESCRIBED COURSE, 83.84 FEET; THENCE CONTINUING NORTHEASTERLY ALONG A LINE 02 DEGREES 38 MINUTES 23 SECONDS LEFT TO THE LAST DESCRIBED COURSE, 553.38 FEET; THENCE CONTINUING NORTHEASTERLY, ALONG A LINE 27 DEGREES 14 MINUTES 13 SECONDS RIGHT TO THE LAST DESCRIBED COURSE 103.19 FEET; THENCE SOUTHEASTERLY ALONG A LINE 82 DEGREES 23 MINUTES 41 SECONDS RIGHT TO THE LAST DESCRIBED COURSE AND WHICH, FOR THE PURPOSES OF THIS DESCRIPTION SHALL HAVE AN ASSUMED BEARING OF SOUTH 49 DEGREES 41 MINUTES 38 SECONDS EAST, 156.94 FEET, TO THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED, SAID POINT OF BEGINNING BEING A POINT ON THE EAST FACE OF THE STEEL SHEETING LINING THE WESTERLY FACE OF THE WAUKEGAN HARBOR; THENCE CONTINUING SOUTH 49 DEGREES 41 MINUTES 38 SECONDS EAST, ALONG THE LAST DESCRIBED COURSE, 650.98 FEET, MORE OR LESS, TO ITS INTERSECTION WITH A LINE BEARING NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST, HEREINAFTER REFERRED TO AS "COURSE A", THE SOUTHERLY TERMINUS OF COURSE A" MORE PARTICULARLY DESCRIBED AS FOLLOWS: (COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST 1/4 IN SECTION 22 AFORESAID; THENCE NORTHEASTERLY MAKING A NORTHEAST ANGLE OF 89 DEGREES 29 MINUTES WITH THE EAST AND WEST QUARTER LINE OF SAID SECTION 22, TO A POINT ON THE NORTH LINE OF CITY STREET, 66 FEET FROM, MEASURED AT RIGHT ANGLES, THE EAST AND WEST QUARTER OF SAID SECTION 22; THENCE EAST WITH AND ALONG THE NORTH LINE OF SAID CITY STREET, PARALLEL WITH THE EAST AND WEST CENTER LINE OF SAID SECTION 22, 585.37 FEET TO A POINT ON THE NORTHWESTERLY LINE OF HARBOR STREET; THENCE NORTHEASTERLY WITH AND ALONG SAID NORTHWESTERLY LINE OF HARBOR STREET AND MAKING A NORTHEASTERLY ANGLE OF 75 DEGREES 12 MINUTES 10 SECONDS WITH THE LAST DESCRIBED COURSE EXTENDED EAST, 119.43 FEET TO A POINT; THENCE EAST, PARALLEL WITH AND 181.47 FEET; FROM, MEASURED AT RIGHT ANGLES THE SAID CENTER LINE OF SECTION 22, 373.61 FEET

TO A POINT; THENCE NORTHEASTERLY MAKING A NORTHEASTERLY ANGLE OF 60 DEGREES 01 MINUTES 15 SECONDS WITH THE LAST DESCRIBED COURSE EXTENDED EAST 417.44 FEET TO A POINT WHICH IS 543.06 FEET NORTH (MEASURED AT RIGHT ANGLES) OF THE EAST AND WEST CENTER LINE OF SECTION 22, AFORESAID, WHICH FOR THE PURPOSE OF REFERENCE IN THIS DESCRIPTION IS HEREINAFTER REFERRED TO AS AN EAST AND WEST LINE HAVING A BEARING OF NORTH 90 DEGREES EAST OR NORTH 90 DEGREES WEST; CONTINUING THENCE NORTH 29 DEGREES 58 MINUTES 45 SECONDS EAST ALONG THE LAST DESCRIBED LINE EXTENDED NORTHEASTERLY, A DISTANCE OF 16.03 FEET TO THE SOUTHERLY TERMINUS OF SAID "COURSE A" HEREIN BEING DESCRIBED); THENCE SOUTH 10 DEGREES 31 MINUTES 36 SECONDS WEST, ALONG SAID "COURSE A" 211.22 FEET; THENCE NORTH 90 DEGREES WEST, 107.11 FEET, MORE OR LESS, TO A POINT ON THE EASTERLY FACE OF THE STEEL SHEETING LINING THE WESTERLY FACE OF THE WAUKEGAN HARBOR; THENCE NORTH 10 DEGREES 17 MINUTES 01 SECONDS; EAST ALONG SAID SHEETING, 65.19 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 17 DEGREES 09 MINUTES 09 SECONDS WEST, ALONG SAID SHEETING, 252.49 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 41 DEGREES 35 MINUTES 22 SECONDS WEST, ALONG SAID SHEETING, 193.99 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 53 DEGREES 26 MINUTES 17 SECONDS WEST, ALONG SAID SHEETING, 230.55 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 32 DEGREES 27 MINUTES 22 SECONDS EAST ALONG SAID SHEETING 48.51 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, IN LAKE COUNTY, ILLINOIS.

~~PARCELS 415~~ THAT PART OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 45 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 22; THENCE NORTH, ALONG THE WEST LINE OF SAID SECTION 22, 66 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF A PUBLIC ROADWAY COMMONLY KNOWN AS CITY STREET; THENCE EASTERLY, ALONG A LINE FORMING AN INTERIOR ANGLE OF 90 DEGREES 31 MINUTES TO THE LAST DESCRIBED COURSE AND PARALLEL WITH THE EAST AND WEST CENTERLINE OF AFORESAID SECTION 22, 340 FEET TO A POINT ON THE EASTERLY LINE OF A 40 FOOT STRIP OF LAND CONVEYED TO THE CITY OF WAUKEGAN BY THE ELGIN, JOLIET AND EASTERN RAILWAY COMPANY BY DEED OF DEDICATION DATED JUNE 17, 1952; THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID 40 FOOT STRIP OF LAND DEDICATED TO THE CITY OF WAUKEGAN AND PARALLEL WITH THE WEST LINE OF AFORESAID SECTION 22, 424.13 FEET; THENCE NORTHWESTERLY, ALONG A LINE 17 DEGREES 58 MINUTES LEFT TO THE LAST DESCRIBED COURSE 322.83 FEET; THENCE NORTHERLY ALONG A LINE 17 DEGREES 47 MINUTES RIGHT TO THE LAST DESCRIBED COURSE 5.23 FEET; THENCE CONTINUING NORTHERLY TANGENT TO THE LAST DESCRIBED COURSE, 155.69 FEET; THENCE NORTHEASTERLY, ALONG A LINE 27 DEGREES 00 MINUTES RIGHT TO THE LAST DESCRIBED COURSE, 466.37 FEET; THENCE CONTINUING NORTHEASTERLY ALONG A LINE 03 DEGREES 56 MINUTES LEFT TO THE LAST DESCRIBED COURSE, 83.84 FEET; THENCE CONTINUING NORTHEASTERLY ALONG A LINE 02 DEGREES 38 MINUTES 23 SECONDS LEFT TO THE LAST DESCRIBED COURSE, 553.38 FEET; THENCE CONTINUING NORTHEASTERLY, ALONG A LINE 27 DEGREES 14 MINUTES 13 SECONDS RIGHT TO THE LAST DESCRIBED COURSE 103.19 FEET; THENCE SOUTHEASTERLY, ALONG A LINE 82 DEGREES 23 MINUTES 41 SECONDS RIGHT TO THE LAST DESCRIBED COURSE AND WHICH, FOR THE PURPOSES OF THIS DESCRIPTION SHALL HAVE AN ASSUMED BEARING OF SOUTH 49 DEGREES 41 MINUTES 38 SECONDS EAST 126.70 FEET, TO THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE SOUTH 32 DEGREES 27 MINUTES 22 SECONDS WEST, 80.47 FEET; THENCE SOUTH 53 DEGREES 26 MINUTES 17 SECONDS EAST, 254.85 FEET; THENCE SOUTH 41 DEGREES 35 MINUTES 22 SECONDS EAST, 184.77 FEET; THENCE SOUTH 17 DEGREES 09 MINUTES 09 SECONDS EAST, 303.93 FEET TO THE EASTERLY FACE OF THE STEEL SHEETING LINING THE WESTERLY FACE OF THE WAUKEGAN HARBOR; THENCE NORTH 10 DEGREES 17 MINUTES 01 SECONDS EAST, ALONG SAID SHEETING, 65.19 FEET, TO AN ANGLE POINT THEREON; THENCE NORTH 17 DEGREES 09 MINUTES 09 SECONDS WEST ALONG SAID SHEETING, 259.49 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 41 DEGREES 35 MINUTES 22 SECONDS WEST, ALONG SAID SHEETING, 193.99 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 53 DEGREES 26 MINUTES 17 SECONDS WEST, ALONG SAID SHEETING, 230.55 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 32 DEGREES 27 MINUTES 22 SECONDS EAST, ALONG SAID SHEETING, 48.51 FEET; THENCE NORTH 49 DEGREES 41 MINUTES 38 SECONDS WEST, 30.24 FEET TO THE POINT OF BEGINNING, IN LAKE COUNTY, ILLINOIS.

Case 1:88-cv-08571 Document 171-2 Filed 01/14/2009 Page 51 of 152

EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF A PUBLIC ROADWAY COMMONLY KNOWN AS PERSHING ROAD, SAID POINT BEING THE SOUTHEASTERLY CORNER OF THE PROPERTY DEDICATED BY THE ELGIN, JOLIET AND EASTERN RAILWAY COMPANY TO THE CITY OF WAUKEGAN BY DEED DATED OCTOBER 19, 1953 AND RECORDED AS DOCUMENT NUMBER 809018, BOOK 1214, PAGE 579; THENCE WESTERLY ALONG THE SOUTHERLY RIGHT OF WAY LINE OF SAID PERSHING ROAD, 271.86 FEET TO A POINT; THENCE SOUTHERLY ALONG A LINE FORMING AN INTERIOR ANGLE OF 81 DEGREES 49 MINUTES TO THE LAST DESCRIBED COURSE, 70.99 FEET TO A POINT; THENCE WESTERLY ON A CURVE CONVEX TO THE SOUTH HAVING A RADIUS OF 175 FEET AND BEGINNING TANGENT WHICH FORMS AN ANGLE OF 74 DEGREES 31 MINUTES 40 SECONDS RIGHT TO THE LAST DESCRIBED COURSE EXTENDED AN ARC DISTANCE OF 104.56 FEET TO A POINT 82 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 101 FEET TO A POINT 64 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 47 FEET TO A POINT 54 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE WESTERLY A DISTANCE OF 53 FEET TO A POINT 39 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 45 FEET TO A POINT 24 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 64.86 FEET TO A POINT ON SAID SOUTHERLY LINE OF PERSHING ROAD; THENCE WESTERLY ALONG SAID SOUTHERLY LINE OF PERSHING ROAD, 66.0 FEET, MORE OR LESS, TO A POINT OF CURVE; THENCE CONTINUING WESTERLY ALONG THE SOUTHERLY LINE OF PERSHING ROAD, ON A CURVE CONVEX TO THE NORTHWEST HAVING A RADIUS OF 153.58 FEET, AN ARC DISTANCE OF 108.42 FEET TO A POINT, SAID POINT BEING THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE CONTINUING ALONG SAID CURVE AN ARC DISTANCE OF 24.74 FEET TO A POINT; THENCE SOUTHWESTERLY, TANGENT TO THE END POINT OF THE LAST DESCRIBED COURSE, 11.5 FEET TO A POINT; THENCE SOUTHEASTERLY ALONG A LINE FORMING AN ANGLE OF 82 DEGREES 23 MINUTES 41 SECONDS TO THE RIGHT OF THE LAST DESCRIBED COURSE AND WHICH LINE SHALL HEREINAFTER HAVE A BEARING OF SOUTH 49 DEGREES 41 MINUTES 38 SECONDS EAST FOR PURPOSES OF THIS DESCRIPTION, 712.42 FEET TO A POINT, SAID POINT BEING ON THE EAST EDGE OF STEEL SEAWALL; THENCE NORTH 16 DEGREES 34 MINUTES 23 SECONDS EAST ALONG SAID SEAWALL TO A POINT, SAID POINT BEING THE INTERSECTION OF THE NORTHERLY EDGE OF A 1.1 FOOT WIDE CONCRETE WALL AND THE EASTERLY EDGE OF A 0.5 FOOT CONCRETE WALL AND CONCRETE SLAB, A DISTANCE OF 91.78 FEET; THENCE NORTH 71 DEGREES 38 MINUTES 21 SECONDS WEST ALONG THE NORTHERLY EDGE OF SAID 1.1 FOOT CONCRETE WALL, 1.19 FEET TO A POINT, SAID POINT BEING AN INTERSECTION OF THE NORTHERLY EDGE OF SAID 1.1 FOOT CONCRETE WALL AND THE EASTERLY EDGE OF 0.5 FOOT CONCRETE WALL, SAID 0.5 FOOT CONCRETE WALL HEREINAFTER REFERRED TO AS "CONCRETE WALL"; THENCE NORTH 16 DEGREES 46 MINUTES 11 SECONDS EAST ALONG THE EASTERLY EDGE OF "CONCRETE WALL", 27.64 FEET TO A POINT, SAID POINT BEING THE INTERSECTION OF THE EASTERLY EDGE OF "CONCRETE WALL" AND THE NORTHERLY EDGE OF "CONCRETE WALL"; THENCE NORTH 67 DEGREES 09 MINUTES 29 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE

WALL", 58.83 FEET; THENCE NORTH 84 DEGREES 45 MINUTES 20 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 10.13 FEET; THENCE NORTH 62 DEGREES 48 MINUTES 35 SECONDS WEST ALONG THIS NORTHERLY EDGE OF "CONCRETE WALL", 30.24 FEET; THENCE NORTH 62 DEGREES 02 MINUTES 29 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 19.89 FEET; THENCE NORTH 50 DEGREES 57 MINUTES 10 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 30.08 FEET; THENCE NORTH 37 DEGREES 51 MINUTES 56 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 14.77 FEET; THENCE NORTH 49 DEGREES 39 MINUTES 02 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 24.48 FEET; THENCE NORTH 50 DEGREES 50 MINUTES 45 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 22.87 FEET; THENCE NORTH 57 DEGREES 16 MINUTES 07 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 90.33 FEET; THENCE SOUTH 81 DEGREES 48 MINUTES 16 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 5.43 FEET; THENCE NORTH 57 DEGREES 39 MINUTES 24 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 27.68 FEET; THENCE NORTH 47 DEGREES 18 MINUTES 47 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 19.68 FEET; THENCE NORTH 04 DEGREES 26 MINUTES 49 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 5.36 FEET; THENCE NORTH 53 DEGREES 36 MINUTES 16 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 14.44 FEET; THENCE NORTH 44 DEGREES 31 MINUTES 21 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 30.14 FEET; THENCE NORTH 66 DEGREES 05 MINUTES 35 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 6.64 FEET; THENCE NORTH 49 DEGREES 52 MINUTES 29 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 33.48 FEET; THENCE NORTH 52 DEGREES 19 MINUTES 13 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 9.77 FEET; THENCE NORTH 56 DEGREES 55 MINUTES 34 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 50.18 FEET; THENCE NORTH 59 DEGREES 46 MINUTES 31 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 10.12 FEET; THENCE NORTH 65 DEGREES 21 MINUTES 42 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 10.00 FEET; THENCE NORTH 69 DEGREES 17 MINUTES 45 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 19.98 FEET TO THE WEST END OF THE SAID "CONCRETE WALL"; THENCE NORTH 53 DEGREES 10 MINUTES 45 SECONDS WEST, 125.08 FEET TO THE POINT OF BEGINNING, IN LAKE COUNTY, ILLINOIS.

EXHIBIT E

Harrington Engineering & Construction, LLC
A  COMPANY

1050 Broadway, Suite 7
Chesterton, Indiana 46304

Phone: (219) 926-5508
Fax: (219) 926-8446

www.harrington-engineering.com

September 1, 2006

SEP 5 2006

06-001

William Anderson, Esq
Diver, Grach, Quade and Masini, LLP
111 North County Street
Waukegan, IL 60085

Transmittal
Basis of Design Memorandum
Alteration of Slip No. 3 Containment Cap
Waukegan Harbor Superfund Site
Waukegan, Illinois

Dear Mr. Anderson:

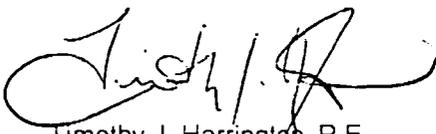
Harrington Engineering & Construction, LLC (HE&C) is enclosing a copy of the Basis of Design Memorandum with the changes received from Ken Larsen of Larsen Marine on August 25, 2006. The changes include:

1. Show water, electric and natural gas entering the proposed dry rack storage building from the existing Larsen Facilities.
2. Show a 150-foot wide and 50-foot wide area lowered in the riprap rock in front of the Slip No. 3 cutoff wall.
3. Show the water drains in the floor of the proposed dry rack storage building going to the storm water drains.
4. Move the northeast corner of the proposed dry rack storage building 30-feet from steel sheet pile wall (if there is a conflict with the footings shorten building to 240-feet long).
5. Fix the elevations at the steel sheet pile cutoff wall to show the elevations are on the ground surface not the top of the sheet pile wall.
6. Set the floor slab elevation at 584-feet NAD⁸⁸.
7. Move the water treatment building to the very southwest corner of the Slip No. 3 containment.

The enclosed copy includes revisions to the text and figures to show these changes and in addition includes the five photographs that are referenced in the text and the calculations that compose Appendix A.

If you have any questions, please call me.

Very truly yours,



Timothy J. Harrington, P.E.

cc: John Moore, PE; Waukegan City Engineer

**Basis of Design Memorandum
Alteration of Slip No.3 Containment Cap
Waukegan Harbor Superfund Site**

In 2005, the City of Waukegan (City) and the United States Environmental Protection Agency Region V (USEPA) reached an agreement whereby the City took responsibility for the operation and maintenance of three containment cells at the Waukegan Harbor Superfund Site. The agreement also included the transfer of certain land and improvements of the bankrupt Outboard Marine Corporation to the City in areas that are in or contiguous to the Waukegan Harbor Superfund Site. These transfers and agreements were made with the understanding that the City would develop the land or improvement parcels for uses that were compatible with the land conditions under the USEPA approved remedial actions.

The City at the time of the agreement with USEPA and continuing afterwards has had discussions with Larsen Marine Service (Larsen) on the possibility of placing a dry rack storage facility near their existing marina operations at the north end of Waukegan Harbor. This Basis of Design Report addresses a conceptual design (30% design) for the construction of a 130-foot wide by 240-foot long dry rack storage building on top of the existing Slip No. 3 Containment on the west side of the current Larsen operation.

1.0 Background

Prior to the remedial action at Waukegan Harbor (prior to 1989), Larsen operated their Marina business from Slip No. 3 the northernmost existing slip off the main harbor at Waukegan. Slip No. 3 was also the location of the outfall pipe from the Outboard Marine Corporations (OMC's) aluminum engine casting operation and contained more than 90% of the mass of polychlorinated biphenyls in Waukegan Harbor. Since complete removal of the sediments in Slip No. 3 was infeasible, a partial removal was completed for subsequent treatment to substantially reduce the mass. The residual PCB in Slip No. 3 along with the sediment from the upper Waukegan Harbor were enclosed in the Slip as a permanent contained location with protective barriers to prevent contact with ground water, surface water, and soil. This area is known as the Slip No. 3 Containment.

The construction sequence for the Slip No. 3 Containment included the following steps:

1. Slip No. 3 was isolated from the remainder of the Upper Harbor by constructing a double sheet pile wall (two walls twenty-feet apart) across the mouth of Slip No. 3. Picture #1 and backfilling the area between the two walls with a bentonite-sand mixture.
2. The sediment containing the largest part of the PCB mass (approximately 85%) in Slip No. 3 was removed for treatment on other parts of the OMC property, Picture #2.
3. A three foot wide soil-bentonite wall constructed from native sand at the site was installed along the northern, western and southern perimeters of Slip No. 3 and

- tied into the backfill between the two sheet pile walls across the mouth of the Slip, thus preventing the unrestricted interchange of ground water inside and outside of the containment area (the bottom of Waukegan Harbor is an impermeable glacial till formation known locally as the Chicago hardpan).
4. Approximately thirty thousand cubic yards of sediment (a silt and sand mix) was hydraulically dredged from the Upper Harbor and placed into Slip No. 3 (at completion of the dredging the sediment from the Upper Harbor filled Slip No. 3 to within two to three feet below ground surface, Picture #3).
 5. A clean sand cover was spread on the sediment starting at the outside edge and progressing inward as the sediment consolidated and would support the sand cover, Picture #4. Once the sand cover extended across the entire surface of the slip at original grade, additional surcharge sand was moved on top of the cover to accelerate the consolidation of the sediment.
 6. Two years after placing the surcharge cover, settlement was complete and the surcharge cover was graded to form the present topographic configuration of the Slip No. 3 containment.
 7. A 60-mil HDPE liner, geogrid drain layer, protective geotextile, 18-inches of sand barrier layer and six-inches of topsoil was then placed over the contoured surcharge sand.
 8. Two recovery wells were installed in the containment immediately after placement of the sand cover and have operated with a water treatment plant to keep the ground water elevation inside of the containment lower than the outside ground water level since completion of the containment in 1991.

The present topography of the Slip No. 3 Containment Cell is shown on Sheet 1 of 5, Conceptual Design Package.

During the hydraulic dredging operation, the sediment was deposited near the east end of Slip No. 3 and water was withdrawn for treatment near the west end of the containment. The dredging operation caused the sandier fraction of the sediment to be deposited in the east end of the containment near the double steel sheet pile cutoff wall with the finer organic silt in the west end of the containment.

The surcharge fill consolidated the deposited sediment until significant settlement was completed. An additional surcharge effect from dewatering the containment continues to secure the sediment.

The containment design for the cover that was placed over the graded surcharge sand was based on the following criteria in the approved Remedial Action Plan¹:

1. The top of the containment cell will be at least 2-feet above the monthly mean 100-year lake level (40 CFR 761.75).
2. Containment cell cover design shall comply with the RCRA regulations, as outlined in 40 CFR 264.310.
3. A topsoil cover, if used, will be a minimum of 6-inches thick.

¹ Canonie Environmental, "Appendix I-11, Design and Analysis Report", February 1991

4. The slope of the cover will be between one and five percent.
5. The cover will have a surface drainage diversion system around the perimeter of the cap.
6. The drainage layer below the top of the cap will have a hydraulic conductivity of greater than 1×10^{-2} cm/sec.
7. If a topsoil cover is used, the drainage layer will be overlain by a filter media.
8. The bottom layer will be located two feet below ground surface and will have a slope of at least two percent.
9. The bottom layer will consist of a synthetic liner with a minimum of 40-mil thickness.

2.0 Proposed Alteration to Slip No. 3 Cap

Larsen proposes to install a 130-foot wide by 240-foot long dry rack boat storage building on top of Slip No. 3 containment for use in their Marina operations. The dry rack storage building would have a center aisle 55-feet wide with steel racks on each side of the aisle for storage of 30-35 foot long powerboats. The boat rack is likely to be tall enough to stack four boats (final decision to be made in later stage of the design). The building would be a steel frame building with the columns supported on spread footings and with a grade beam between the footings to carry the backside of the boat racks and the sidewall of the building. The steel racks that support the stacked boats would require another footing along the length of the building aisle. Typical pictures of a dry rack storage facility are shown on Picture 5.

The boats are taken in and out of the rack system using a large forklift truck capable of picking boats up to 20,000 pounds and with a boom that allows for placement in the water at up to -12 feet below grade. The forklift with the boat places a load on the dual wheel rear (non-steering) axle of the forklift that is equivalent to a loaded semi-truck (40,000 pounds). A picture of a typical forklift for dry rack storage is shown on Picture 5.

The property of Slip No. 3 is within the area of the 100-year flood elevation of the City and will have a floor slab elevation of 584 feet (NAD₈₈). A plan view of the building on the Slip No. 3 site is shown on Sheet 2 of 5. The top of the steel sheet pile wall is at 584.5 feet (NAD₈₈) and is approximately the same elevation as the proposed building floor slab. At the sheet pile wall the armor rock that was installed in 1991 to provide wave attenuation will be removed to elevation 571 feet (NAD₈₈) at two locations to allow for lowering of the boats into the water even at the lowest water levels ever recorded in Lake Michigan. The wave attenuation rock will be removed over a 100-foot wide and a 50-foot wide area to allow for multiple launching tie-off locations to facilitate launching and retrieval operations. The location of the launching and retrieval areas is shown on Sheet 2 of 5. A cross-section of the wall showing the wave attenuation rock that will be removed is shown on Sheet 3 of 5.

An analysis of the stability of the sheet pile walls that contain Slip No. 3 is included in Appendix A. The wall, under the present conditions and without the slide resisting

effects of the toe rock, is adequate for the structural system of the front wall face and the tieback system. The stresses in the sheet pile wall are well below the allowable stresses for steel bulkhead design even without the toe rock.

An initial analysis of a likely building support system is based on the sediment and sand cover classifying as loose sand. The analysis is also based on an assumed perimeter column load of 100,000 pounds and a boat rack with 20,000-pound boats stacked four high. A seven-foot square spread footing keeps the bearing pressure at less than 2000 pounds per square foot the prescribed load for loose sand as specified in the 2003 International Building Code. The rack footing closest to the aisle would spread its load to a grade beam with a three foot wide footing to maintain a similar bearing capacity. A preliminary estimate of settlement indicates that the immediate settlement when the load is added could be up to ½ inch (the load would consist of the racked boats and snow load on the roof). Based on preliminary analysis, the foundation on the drawings are shown as spread footings bearing on the ground at 42-inches below grade for frost protection and with a grade beam between columns to carry the load of the sidewalls and the boat rack. The preliminary analysis of the bearing capacity and settlement are enclosed in Appendix A.

To investigate the soil conditions under the building, a sampling program is proposed to collect information on the density and characteristics of the consolidated sediment at a location on the east and west ends of the proposed building. Each soil sample will be advanced continuously from just below the existing HDPE liner until contact with the glacial till and will be sampled to determine density, water content, and grain size. The sampling program is presented in Appendix B. Soil sampling for the areas of the Slip No. 3 containment outside of the original Slip No. 3 sheet pile wall are not proposed, since many soil borings were taken in this area during design of the soil-bentonite wall and are available for use in design of the building footings.

After completing the soil-sampling program, the conceptual footing design shown on the drawings will be modified to support the building loads. If settlement of a spread footing is too great in the areas of sediment fill to meet the tolerance requirements for the building and storage rack system, the footings may have to be supported on displacement piles (H-piles or open end pipe piles) that do not bring sediment to the surface.

The area to the west of the proposed building would be developed as a gravel yard area for surface storage of boats during the off-season and parking during the boating season. The area would maintain a pitch centered on the entrance to the rack storage building at 584.5 that will allow the liner on top of the Slip No. 3 containment to slope at the minimum slope towards the soil-bentonite walls on either side of the containment.

The recovery wells will remain at their present locations with the well top elevation lowered into a concrete vault at each location. The vault will be designed to sustain the load of the operations in the dry-rack storage building with the cast-iron lid highway load rated to support the loaded forklift. The electric and piping in the vaults will be rerouted under the new liner to a new treatment plant location near the power source at the west

end of the containment. Electric power to the well vaults will be above the new liner system and clean water from the treatment plant will discharge through a new pipe to CB-A at the upstream end of the perimeter drainage system. The locations of these features and the plan for the well vault are shown on Sheet 2 of 5 and Sheet 4 of 5.

The new HDPE liner/drainage grid/geotextile cover will be installed to slope from the center of the altered slip sand cover to the soil-bentonite wall top at a consistent slope of approximately 2%. Within the building footprint, there will be no liner. The building system will perform the infiltration limiting effects of the liner. The HDPE liner will be attached to the building at the perimeter grade beam with a stainless steel batten strip, as shown on Sheet 4 of 5.

Larsen may wash the hulls of the boats prior to racking the boats. The plan shows a series of floor drains for the purpose of capturing the wash water. Since these drains will be under the floor without the benefit of underlying liner, the conceptual design is to double enclose the drain lines with the discharge to the storm drainage system. Larsen will also install electric, water and natural gas service to the building. The electric and natural gas will be installed above the liner with the water service installed in a sleeve below the liner to maintain freeze protection for the water supply.

3.0 Investigation of the Sand Cover

The alteration of the cap of the Slip No. 3 Containment to allow for placement of the boat dry rack storage facility should all occur within the surcharge sand that was placed above normal grade at the site. The sand was taken from a large stockpile of sand that was on the former GM coke plant site adjacent to the Upper Harbor. The source of the sand was a United State Army Corps of Engineers dredging program in the entrance channel of Waukegan Harbor (out in the Lake) that was completed in the early 1970's. It is expected that the sand may contain some PCB's at concentrations less than 1ppm, but not the same concentration as the sediment that was placed into the cell from the Upper Harbor (the sediment from the upper harbor included all of the sediment in the harbor with concentrations of PCB greater than 50ppm).

To confirm the PCB concentration of the sand cover and to verify that sediment will not be in the area that will be excavated to lower the cap on the containment cell, a series of soil cores will be collected and analyzed for PCBs. The sample locations are shown on Sheet 2 of 5. The details of the sampling program and the sampling procedures are presented in Appendix B.

4.0 Basis of Design

The basis of design for the alteration of Slip No. 3 containment for use as a dry rack boat storage facility is centered on four basic design parameters:

1. Provide a new cap that meets the original design criteria or provides equivalent function.

2. Provide a foundation support system for the dry rack storage building that will meet the load and settlement criteria without removal of the sediment from the containment.
3. Identify the surcharge/cover sand as a separate material from the sediment and keep alterations in the surcharge/cover sand or above, including building foundations.
4. Maintain the integrity of the existing recovery well, treatment system and water level monitoring system

4.1 Cap design criteria

The altered Slip No. 3 containment will directly meet most of the previous cap design criteria. The major variation is the use of the building envelope to perform as the upper impermeable liner under the building footprint. The building provides a dual envelope; with the building roof shedding rainwater to down drains that will be directly piped to the perimeter storm water drain system. The floor slab of the building acts as the secondary envelope to prevent surface water from entering the containment. The floor slab will be constructed using PVA additive in the concrete to reduce shrinkage and temperature cracking of the floor slab. If an expansion cold joint has to be incorporated into the final design of the floor slab, the joint will be placed on the high point in the floor drain slope and will be sealed with a waterproof mastic compound.

Compliance with the original design criteria are presented in Table 1

Table 1
Cap Design Criteria

Design Criteria	Means of Compliance
Cap 2-feet above 100-year mean lake level	Low point of cap liner to remain at present elevation on the top of the soil-bentonite wall
Compliance with RCRA regulations	Building provides equivalent permeability less than or equal to the permeability of the bottom liner (glacial till). It also provides long-term minimization of migration of liquids through the closed containment and will function with minimum maintenance and will be resistant to erosion and abrasion.
6-inches of topsoil cover where required	Most of the topsoil cover will be removed and replaced with gravel or paved surfaces
Slope of 1-5%	Slope of liner will be 1-2% minimum on west end of containment
Surface drainage ditch around perimeter	Existing surface drainage and surface water storm drain around perimeter will remain in-place.

Drainage layer permeability $> 10^{-2}$ cm/sec	New drainage layer may consist of gravel fill over protective layer that provides drainage of full gravel layer with a permeability of more than 10^{-2} cm/sec
Drainage layer covered with filter layer	Topsoil likely used only around the edges of containment. Filter layer will be present.
Cover two feet below ground surface	To maintain slope cover over liner at center of containment on west end of containment may have 1.5 feet of cover (combined gravel and paving). However, cover will be drainable layer in its entirety, will not be subject to freeze-thaw, and will have a hard non-erosive surface layer.
Synthetic liner at least 40-mil	Synthetic liner where used outside of building footprint will be 60-mil HDPE or LDPE.

4.2 Foundation Support System

The probable design criteria will be a settlement limitation of ½ inch differential settlement between footings for a light steel frame structure supporting the loads of snow and stored boats. The floor slab and outside flatwork concrete for the forklift operation will be designed to support a typical AASHTO H-20 loading (the loading from a semi-truck). The slab will be 6-8 inches thick with appropriate reinforcing and will bear on a gravel sub base layer that will also act as the drain layer for the cap (see above).

If test results from soil borings taken in the sediment indicate unacceptable settlement with only a spread footing bearing in the surcharge sand, an alternate foundation using displacement piles may have to be used on some of the footings.

4.3 Separation of Surcharge/Cover Sand from Sediment

PCB content will identify the surcharge/cover sand. Sand from the surcharge/cover area having concentrations less than 1 ppm will be deemed suitable for reuse on the City properties as allowed under classifications of the State of Illinois. Color content will be recorded during investigative sampling to determine if visual factors may be used to delineate the surcharge/cover sand from the underlying sediment.

The design testing will be supplemented during the implementation of the alteration to include additional testing to properly classify sand removed from below the original HDPE liner with the following expected classifications:

1. Less than 1 ppm PCB. unrestricted use on the City Property
2. Equal to or greater than one and less than 50ppm, disposal in a solid waste landfill.

3. Equal to or greater than 50ppm, disposal in a TSCA-approved landfill.

4.4 Existing Recovery Well, Treatment and Monitoring System

Recovery well vaults will be designed to allow for safe, manned access with appropriate ventilation to access the electrical and piping in the vault. The vault will be designed for the AASHTO highway loadings including selection of a manhole that meets the H-20 load requirements.

The treatment plant will be moved to the new location shown on Sheet 2 of 5 with a new floor drain discharge overflow into the containment area and a new power supply and drain line installed. Drainage of treated water will be to the storm sewer pipe on the north side of the containment cell. Pipes from the recovery well to the water treatment facility will be installed under the new HDPE liner and electrical will be installed over the top of the liner in the sub base/drainage layer.

Some of the piezometers and monitoring wells will be changed from exposed to flush-mount covers to allow for surface storage or parking uses of the altered Slip No. 3 cap. No other change is proposed for the water level and water quality monitoring system.

Appendix A
Preliminary Design Analysis
(To be provided with hard copy)



Photograph 1



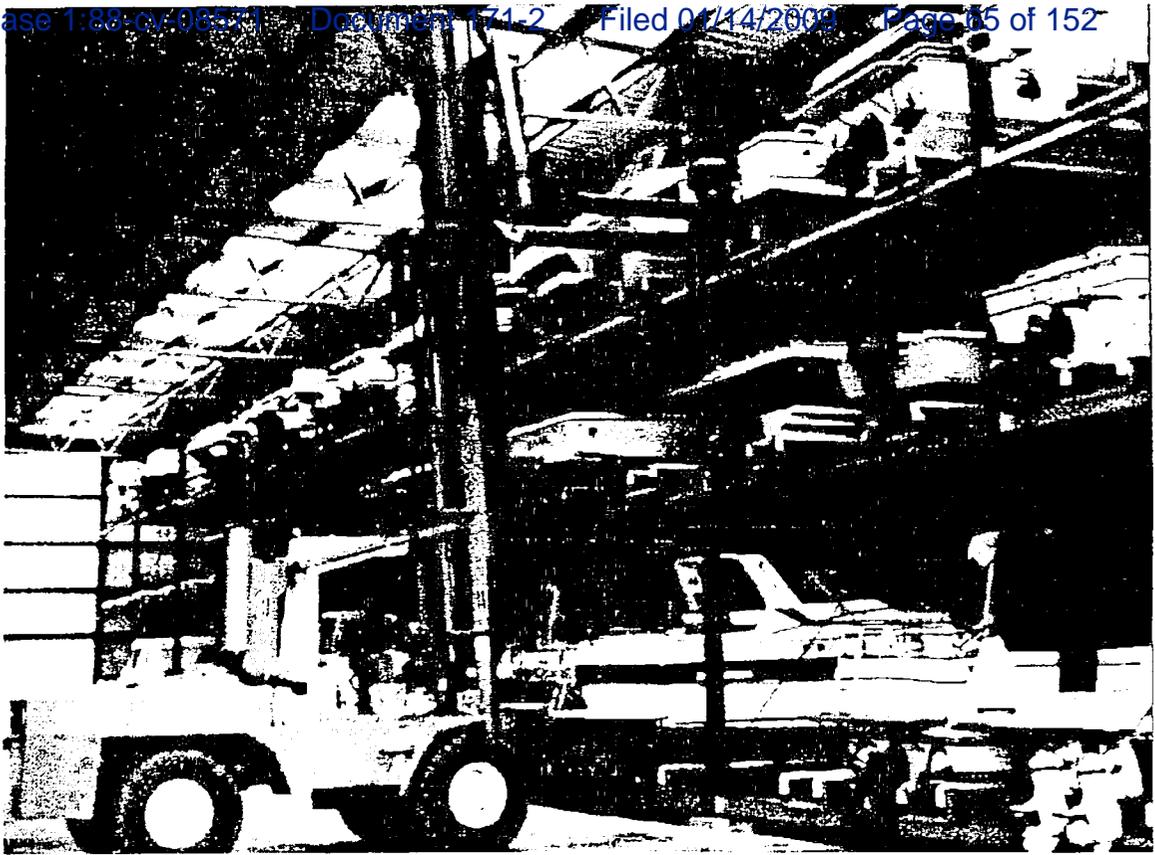
Photograph 2



Photograph 3



Photograph 4



Photograph 5

Appendix A
Preliminary Design Analysis

(Documents attached
to Original in
files of Waukegan)

EXHIBIT F

LEASE (Slip #3)

This Lease is made and entered into this _____ day of _____, 2006, by and between the City of Waukegan (hereinafter referred to as "Lessor") and Larsen Marine Services, Inc., an Illinois corporation (hereinafter referred to as "Lessee").

WHEREAS, Lessor and Lessee have entered into a Final Settlement Stipulation in the matter of *Larsen Marine Services, Inc. v. City of Waukegan*, General No. 02 MR 1333 in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois; and

WHEREAS, that Settlement Stipulation contemplates that Lessor will enter into a lease with Lessee for the property referred to as "Slip 3" in the Final Settlement Stipulation, as shown on Exhibit A and legally described on Exhibit B attached hereto and made a part hereof (hereinafter referred to as "Premises"); and

NOW THEREFORE, for and in consideration of the terms and conditions of the Final Settlement Stipulation, and furthermore in consideration of the following covenants and agreements, the sufficiency of which is hereby acknowledged, the parties agree upon the following terms and conditions for this lease:

1. **Term.** The term of this lease agreement shall be for a period of ninety -nine years, as defined in the Final Settlement Stipulation in the matter of *Larsen Marine Services, Inc. v. City of Waukegan*, General No. 02 MR 1333 in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois.

2. **Purpose:** Lessor hereby agrees to lease to Lessee the Premises and real estate as shown on Exhibit A and legally described on Exhibit B for marine commercial purposes as defined in the Final Settlement Stipulation in the matter of *Larsen Marine Services, Inc. v. City of Waukegan*, General No. 02 MR 1333 in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois.

3. **Rent:** The rent for the leased Premises shall be Ten and 00/100 (\$10.00) Dollars per year, payable on the _____ day of _____ of each year.

4. **Utilities:** Lessor shall have no responsibility to provide water, electricity, gas, power, heat, air conditioning, or any other utility service to said Premises, but Lessee shall have the right and sole responsibility to provide such utilities.

5. **Use and Maintenance of Premises:**

A. Lessee covenants and agrees that the Premises shall be used for marine commercial purposes, including but not limited to the right but not the obligation to construct and maintain buildings, underground utilities, overhead utilities, parking areas, access areas, fencing, boat storage areas, ramps, and areas for the launching of boats. Lessee further covenants and agrees not to permit or suffer any waste, misuse or neglect of in or upon the Premises or any part thereof.

Lessee shall comply with all applicable laws, including consent decrees, affecting the leased Premises.

- B. Lessee shall have the right to erect reasonable signage in compliance with all local applicable laws affecting the Premises.
- C. Upon termination of the lease, Lessee shall have the right but not the duty to remove any buildings, fixtures, improvements, or fencing which may have been placed on the Premises. Any and all such improvements or fixtures which may be made or installed by Lessee upon the Premises, and which shall not be removed at the termination of this lease, shall thereafter become the property of the Lessor.
- D. Lessor shall be required to prepare the Premises for use by Lessee for marine commercial purposes, as required in the Final Settlement Stipulation in the matter of *Larsen Marine Services, Inc. v. City of Waukegan*, General No. 02 MR 1333 in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois.
- E. Lessee covenants and agrees to keep the Premises in good repair and in a clean condition at Lessee's own expense. Lessee shall be responsible for any and all repairs in and upon said Premises for improvements constructed by Lessee. Lessor shall be solely responsible for any repairs required to comply with the requirements of the United States Environmental Protection Agency as well as any other repairs or remediation work required because of the three containment cells or any other known or unknown environmental condition of the Premises, except for environmental conditions occurring after the date Lessee takes possession of the Premises and are caused by Lessee's use of the Premises. Lessee further covenants and agrees that any improvements to the Premises by Lessee and the use of the Premises by Lessee shall comply with all applicable laws and ordinances in accordance with the terms of the Final Settlement Stipulation in 02 MR 1333.

6. **Landlord's Warranties and Covenants:** Landlord covenants, represents and warrants as follows:

- A. Possession. The Premises are free and clear of all tenancies, whether oral or written and that tenant shall have the sole, exclusive and actual possession of the Premises from the date of this lease until termination of this lease.
- B. Covenant of Title. Landlord has good title to the Premises and the Premises are free and clear of all liens, encumbrances, easements,

tenancies, or restrictions, other than those shown on the Title Commitment of Chicago Title Insurance Company, # _____, dated _____. Landlord will defend the title and will indemnify tenant against any damage and expense which tenant may suffer by reason of any claim against title or defect in the title or description of the Premises.

- C. The Premises are included in the real estate are known to be environmentally contaminated and have been classified as part of the Waukegan Harbor Superfund Site and was subject to remedial action including the construction of containment cells for PCBs as other remedial action set forth in a approved Remedial Action Plan approved by the United States Environmental Protection Agency as set forth in a Consent Decree in the case of *United States of America and State of Illinois v. City of Waukegan, et al.*, No. _____, which was pending in the United States District Court for the Northern District of Illinois. Lessor covenants and warrants that the use of the Premises by Lessee for marine commercial purposes as defined in the Final Settlement Stipulation is not in violation of the Consent Decree or any other agreements with the United States Environmental Protection Agency and that any notices or action required by the Remedial Action Consent Decree resulting from the lease of the Premises has been accomplished by Lessor. Lessor further covenants and warrants that all necessary legal, regulatory, title, construction, and all other required permits have been obtained for the work done by Lessor to prepare the Premises for use by Lessee and to allow the Premises to be used by Lessee for marine commercial purposes as defined in the Final Settlement Stipulation. Lessor further covenants and warrants that it will be solely responsible for the environmental condition of the Premises, except for environmental conditions occurring after the date Lessee takes possession of the Premises and are caused by Lessee's use of the Premises. This warranty shall survive the termination of the this Lease.

7. **Tenant's Covenants:** Tenant covenants, warrants and agrees as follows:
- A. Rent. To pay the rent on the days and in the manner provided in this lease.
- B. Repairs. To keep the Premises in a safe and good condition and repair, subject to ordinary wear and tear.

- C. Compliance with Law. To comply with all governmental laws, rules and regulations applicable to the marine commercial use of the Premises.
- D. Contamination. Not to take any action or allow any use of the Premises which would cause additional environmental contamination of the Premises.
- E. Cooperation with Lessor. During the term of this Lease, Lessor may undertake to clear certain of the liens, Encumbrances, easements, tenancies and restrictions that are shown on the Chicago Title Insurance Company Title Commitment # _____. All of this work shall be performed by Lessor at no expense or cost to Lessee. Lessee shall cooperate with Lessor, upon Lessor's reasonable request, securing the release of any of the foregoing listed exceptions to title.

8. Indemnity and Insurance:

- A. Lessor covenants and agrees that it will protect and save and keep Lessee forever harmless and fully indemnified against and from any and all claims, loss, costs, expense, penalty, damage or charges which result from the existing environmental condition of the Premises, including but not limited to those conditions which caused the United States Environmental Protection Agency to designate the Premises as the Waukegan Harbor Superfund Site, and including but not limited to the current condition of the Premises as a containment site for PCBs, and Lessor will at all times protect, indemnify, save and keep the Lessee harmless against and from any and all claims, loss, costs, claims of personal injury or property damage, any other damage, or expense arising out of the environmental condition of the premises, including but not limited to those conditions which caused the United States Environmental Protection Agency to designate the Premises as the Waukegan Harbor Superfund Site, and including but not limited to the current condition of the Premises as a containment site for PCBs, except for environmental conditions caused by Lessee's use of the Premises. This warranty shall survive the termination of this Lease.
- B. Lessor covenants and agrees that it shall be solely responsible for any and all environmental remediation, repairs, work, or any other actions which may need to be taken in the future as a result of the environmental contamination or condition of the Premises, including but not limited to those environmental conditions which caused United States Environmental Protection Agency to designate the Premises

as the Waukegan Harbor Superfund Site, and including but not limited to the current condition of the Premises as a containment site for PCBs, and will save and keep the Lessee forever harmless and fully indemnified against and from any loss, cost, expense, penalty, damage or charges imposed for any environmental condition, cleanup, or remediation, except for environmental conditions caused by Lessee's use of the Premises. This warranty shall survive the termination of this Lease.

- C. Lessee covenants and agrees that it will protect and save and keep Lessor forever harmless and indemnified against and from any loss, cost, expense, penalty, damage or charges imposed occasioned by the neglect of Lessee or Lessee's employees, agents, customers and invitees, and that Lessee will at all times protect, indemnify and save and keep harmless the Lessor against and from any and all loss, cost, damage or expense arising out of or from any accident or other occurrence on or about the said Premises causing injury to any person or property as a result of the use of the Premises by Lessee or Lessee's employees, agents, customers or invitees.
- D. Lessee further covenants and agrees that at all times during this lease it will secure and maintain insurance in a good and responsible insurance company satisfactory to Lessor, insuring said Lessor against claims for damages to property and/or for personal injury or death claimed to have been caused on or about the Premises as a result of the use of the Premises by Lessee, or alleged to have been caused by reason of any negligence in the care and maintenance of the Premises, with the limits no less than \$1,000,000 as to the claim of any one person and not less than \$2,000,000 as to the claims of more than one person arising out of any one incident or occurrence. Said liability insurance policy shall be issued in the name of Lessee and the Lessor shall be named as an additional insured, and said insurance shall be paid for by Lessee, and Lessee shall provide proof of such insurance to Lessor upon demand.
- E. Lessee shall not permit any mechanic's liens to be placed against the Premises, and if any such mechanic's lien is placed against the Premises Lessee shall within 20 days cause the same to be removed or in good faith contest the same and diligently proceed and continue to proceed to do so.

9. **Subletting and Assignment:** Lessee covenants and agrees that Lessee shall not allow the Premises to be occupied in whole or part by any other person, and shall not sublet the same nor any part thereof, nor assign this lease, without first obtaining the written consent of Lessor which such consent shall not unreasonably be withheld.

10. **Termination of Lease:** Lessor agrees that Lessee shall have the right to terminate this lease if the Premises become unusable for marine commercial purposes as a result of the environmental condition of the Premises.

11. **Abandonment:** If Lessee shall vacate or abandon the Premises or permit the same to be vacant or unoccupied for a period of 60 days, or if Lessee shall be declared insolvent or bankrupt by any court, then Lessee's right to possession of the Premises shall terminate upon 10 days written notice from Lessor to Lessee.

12. **Cancellation of Other Lease:** Upon execution of this Lease, the previous lease agreement between Lessee and Lessor for the North Plant Leased Premises as defined in the Final Settlement Stipulation in the matter of *Larsen Marine Services, Inc. v. City of Waukegan*, General No. 02 MR 1333 in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois, shall terminate.

13. **Real Estate Taxes:** Lessor shall be responsible for the payment of any real estate taxes, if any, which may be imposed on the Premises at any time during the term of this lease and shall promptly pay any such taxes before they become due and delinquent.

14. **Landlord Remedies:** If Lessee fails to pay the rent when due and continues to be in default for failure to pay rent after thirty (30) days written notice from Lessor, or if Lessee fails to perform any other obligation under this Lease after thirty (30) days written notice from Lessor, then Lessor may declare the Lease null and void or seek a court order under *Larsen Marine Services, Inc. v. City of Waukegan, 02 MR 1333*, to require compliance with the terms of this lease. If any default shall occur which in due diligence cannot be cured within (30) days, and Lessee begins to take the necessary actions within the thirty (30) day period, then Lessee shall not be in default and shall be given a reasonable time to cure that default. These remedies are in addition to all other remedies Lessee may have in law or equity.

15. **Tenant Remedies:** Lessor acknowledges that Lessee is relying on all of the covenants, warranties, representations and agreements in this Lease and all such matters so represented are material. Lessor accordingly agrees to take all necessary actions to correct any default in the terms of this Lease within thirty (30) days after written notice from Lessee. If Lessor fails to cure such default within thirty (30) days, then Lessee may seek a court order under *Larsen Marine Services, Inc. v. City of Waukegan, 02 MR 1333*, to require compliance with the terms of this lease, or at its option, may cure Lessor's default and Lessee shall be responsible for the payment of any fees and costs incurred by Lessee to cure said default. These remedies are in addition to all other remedies Lessee may have in law or equity.

16. **Attorneys' Fees:** If Lessee is required to file a petition to enforce the terms of this lease under *Larsen Marine Services, Inc. v. City of Waukegan, 02 MR 1333*, or files any other action to enforce the terms of this lease, and if Lessee prevails in any such action, then Lessee shall be entitled to an award of all reasonable attorneys' fees and costs incurred by Lessee in that action. If Lessor is required to file a petition to enforce the terms of this lease under *Larsen Marine Services, Inc. v. City of Waukegan, 02 MR 1333*, or files any other action to enforce the terms of this lease, and if Lessor prevails in any such action, then Lessor shall be entitled to an award of all reasonable attorneys' fees and costs incurred by Lessor in that action.

17. **Rezoning:** Lessor agrees to promptly process a petition and all other related documents so that the Premises can be approved for rezoning to the MCR classification or other applicable zoning classification to allow Lessee to use, operate, and maintain the Premises for marine commercial purposes. These approvals include but are not limited to map amendments, text amendments, special use, and variations which may be required.

In order to obtain the zoning and other approvals referenced in this paragraph, Lessee has agreed to submit all of the required applications, documents and fees required by Lessor. Lessee understands and agrees that these applications and documents will be subject to further review and approval by Lessor. Nothing contained in this lease shall obligate Lessor to approve any requests of Lessee which are not in compliance with all of the ordinances of Lessor. Lessee acknowledges and agrees that the request for zoning and other approvals is subject to the review process mandated by Illinois State law and Lessor ordinances and regulations.

18. **Miscellaneous Provisions:**

A. **Successors and Assigns:** The terms, agreements, covenants, and warranties shall be binding on and shall inure to the benefit Lessor and Lessee, and their respective heirs, personal representatives, executors, administrators, successors, and assign, and shall run with the land.

B. **Writing:** No waivers, alterations, modifications, or amendments of this Lease or any written agreements in connection with this lease shall be valid unless agreed to in writing by the parties.

C. **Notice:** All notices or demands required hereunder or which any of the parties deem desirable to make, serve, or give shall be in writing, signed by the party or its attorney, sent by certified mail, return receipt requested, postage prepaid, or by overnight mail with written delivery confirmation, and

(a) if intended for Lessor shall be sent to:

(b) if intended for Lessee shall be sent to:

D. Authority to Sign: Any person signing this lease represents and warrants that he or she has full authority to do so and that its execution has been duly authorized.

E. Construction: This lease shall be construed and interpreted in accordance with the laws of the State of Illinois and in accordance with the Final Settlement Stipulation in *Larsen Marine Services, Inc. v. City of Waukegan*, 02 MR 1333. If any provision of this lease shall be declared to be invalid or unenforceable by any court of competent jurisdiction, such provision shall be deemed severable, and such invalidity or unenforceability shall not affect any other provisions of this Lease.

IN WITNESS WHEREOF the parties have executed this Lease the day and year first written above.

Lessor: **City of Waukegan**

Lessee: **Larsen Marine Services, Inc.**

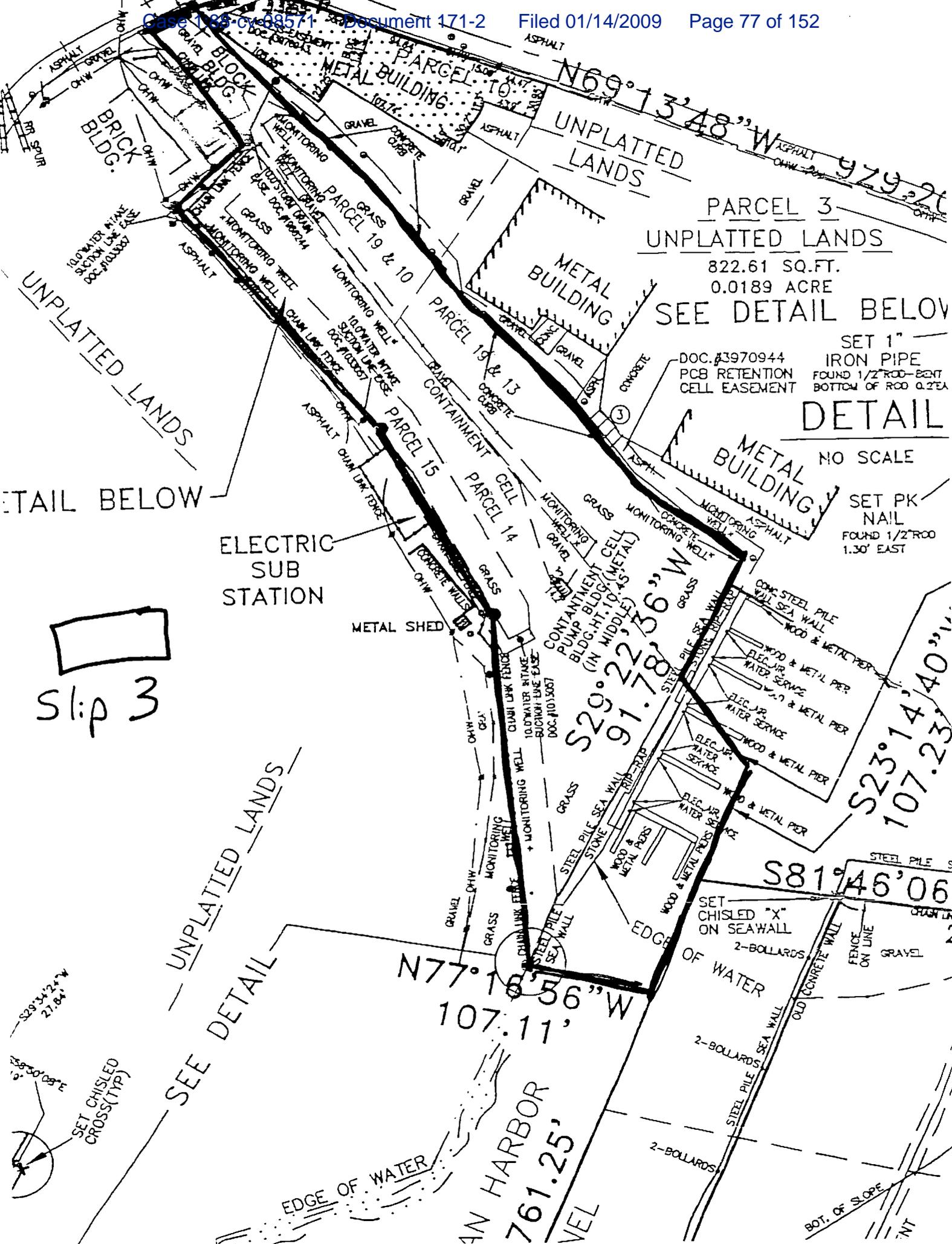
By: _____
Mayor Hyde

By: _____
President

Attest: _____
City Clerk

EXHIBIT A

to Case



PARCEL 3
UNPLATTED LANDS
822.61 SQ.FT.
0.0189 ACRE
SEE DETAIL BELOW

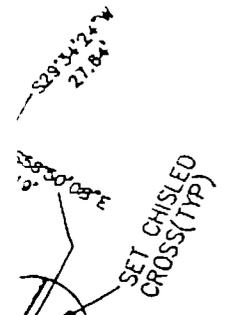
SET 1" IRON PIPE
FOUND 1/2" ROD - 22" BOTTOM OF ROD 0.27' EA
DOC. #3970944
PCB RETENTION CELL EASEMENT

DETAIL

NO SCALE

SET PK NAIL
FOUND 1/2" ROD 1.30' EAST

Slip 3



SEE DETAIL

EDGE OF WATER

AN HARBOR
761.25'
VEL

EDGE OF WATER
2-BOLLARDS
SEA WALL
STEEL PILE
OLD CONCRETE WALL
FENCE ON LINE
GRAVEL
BOT. OF SLOPE

EXHIBIT B

to Case

Case 1:88-cv-08571 Document 171-2 Filed 01/14/2009 Page 79 of 152
EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF A PUBLIC ROADWAY COMMONLY KNOWN AS PERSHING ROAD, SAID ROAD BEING THE SOUTHEASTERLY CORNER OF THE PROPERTY DEDICATED BY THE ELGIN, JOLIET AND EASTERN RAILWAY COMPANY TO THE CITY OF WAUKEGAN BY DEED DATED OCTOBER 29, 1953, AND RECORDED AS DOCUMENT 809018, BOOK 1214, PAGE 579; THENCE WESTERLY ALONG THE SOUTHERLY RIGHT OF WAY LINE OF SAID PERSHING ROAD, 271.86 FEET TO A POINT; THENCE SOUTHERLY ALONG A LINE FORMING AN INTERIOR ANGLE OF 81 DEGREES 49 MINUTES TO THE LAST DESCRIBED COURSE, 70.99 FEET TO A POINT; THENCE WESTERLY, ON A CURVE CONVEX TO THE SOUTH HAVING A RADIUS OF 175 FEET AND BEGINNING TANGENT WHICH

FORMS AN ANGLE OF 74 DEGREES 31 MINUTES 40 SECONDS RIGHT TO THE LAST DESCRIBED COURSE EXTENDED AN ARC DISTANCE OF 104.56 FEET TO POINT 82 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 101 FEET TO A POINT 64 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 47 FEET TO A POINT 54 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE WESTERLY A DISTANCE OF 53 FEET TO A POINT 39 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 45 FEET TO A POINT 24 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 64.86 FEET TO A POINT ON SAID SOUTHERLY LINE OF PERSHING ROAD; THENCE WESTERLY, ALONG SAID SOUTHERLY LINE OF PERSHING ROAD, 66.6 FEET TO A POINT OF CURVE; THENCE CONTINUING WESTERLY, ALONG THE SOUTHERLY LINE OF PERSHING ROAD, ON A CURVE CONVEX TO THE NORTHWEST HAVING A RADIUS OF 153.58 FEET, AN ARC DISTANCE OF 133.16 FEET TO A POINT; THENCE SOUTHWESTERLY, TANGENT TO THE END POINT OF THE LAST DESCRIBED COURSE, 11.5 FEET TO A POINT; THENCE SOUTHEASTERLY, ALONG A LINE FORMING AN ANGLE OF 82 DEGREES 23 MINUTES 41 SECONDS, TO THE RIGHT OF THE LAST DESCRIBED COURSE, AND WHICH, FOR THE PURPOSES OF THIS DESCRIPTION, SHALL HAVE AN ASSUMED BEARING OF SOUTH 49 DEGREES 41 MINUTES 38 SECONDS EAST, 329.35 FEET, TO THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE CONTINUING SOUTH 49 DEGREES 41 MINUTES 38 SECONDS EAST ALONG THE LAST DESCRIBED COURSE, 478.58 FEET, MORE OR LESS, TO ITS INTERSECTION WITH A LINE BEARING NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST, HEREINAFTER REFERRED TO AS "COURSE A", THE SOUTHERLY TERMINUS OF SAID "COURSE A" MORE PARTICULARLY DESCRIBED AS FOLLOWS: (COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST CORNER OF SAID NORTHWEST 1/4 IN SECTION 22 AFORESAID; THENCE NORTHEASTERLY MAKING A NORTHEAST ANGLE OF 89 DEGREES 29 MINUTES WITH THE EAST AND WEST QUARTER LINE OF SAID SECTION 22, TO A POINT ON THE NORTH LINE OF CITY STREET, 66 FEET FROM, MEASURED AT RIGHT ANGLES, THE EAST AND WEST QUARTER LINE OF SAID SECTION 22; THENCE EAST WITH AND ALONG THE NORTH LINE OF SAID CITY STREET, PARALLEL WITH THE EAST AND WEST CENTER OF SAID SECTION 22, 585.37 FEET TO A POINT ON THE NORTHWESTERLY LINE OF HARBOR STREET; THENCE NORTHEASTERLY WITH AND ALONG SAID NORTHWESTERLY LINE OF HARBOR STREET AND MAKING A NORTHEASTERLY ANGLE OF 75 DEGREES 12 MINUTES 10 SECONDS WITH THE LAST DESCRIBED COURSE EXTENDED EAST, 119.43 FEET TO A POINT; THENCE EAST, PARALLEL WITH AND 181.47 FEET FROM, MEASURED AT RIGHT ANGLES, THE SAID CENTER LINE OF SECTION 22, 373.61 FEET TO A POINT; THENCE NORTHEASTERLY MAKING A NORTHEASTERLY ANGLE OF 60 DEGREES 01 MINUTES 15 SECONDS WITH THE LAST DESCRIBED COURSE EXTENDED EAST 417.44 FEET TO A POINT WHICH IS 543.06 FEET NORTH (MEASURED AT RIGHT ANGLES) OF THE EAST AND WEST CENTER LINE OF SECTION 22, AFORESAID, WHICH FOR THE PURPOSES OF REFERENCE IN THIS DESCRIPTION IS HEREINAFTER REFERRED TO AS AN EAST AND WEST LINE HAVING A BEARING OF NORTH 90 DEGREES EAST OR NORTH 90 DEGREES WEST; CONTINUING THENCE NORTH 29 DEGREES 58 MINUTES 45 SECONDS EAST ALONG THE LAST DESCRIBED LINE EXTENDED NORTHEASTERLY, A DISTANCE OF 16.03 FEET TO THE SOUTHERLY TERMINUS OF SAID "COURSE A" HEREIN BEING DESCRIBED); THENCE NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST, ALONG SAID COURSE A, 126.89 FEET, MORE OR LESS, TO A POINT WHICH IS 330.51 FEET SOUTH 10 DEGREES 31 MINUTES 36 SECONDS WEST FROM THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED BY WILLIAM H. BAEHR ON MARCH 14, 1927 AS DOCUMENT 295716; THENCE NORTH 90 DEGREES EAST 109.39 FEET TO THE WEST FACE OF THE SEAWALL LINING THE EAST SIDE OF THE WAUKEGAN HARBOR; THENCE NORTH 10 DEGREES 31 MINUTES 24 SECONDS EAST, ALONG SAID SEAWALL 1.79 FEET, TO AN ANGLE POINT THEREON; THENCE NORTH 81 DEGREES 09 MINUTES 18 SECONDS WEST, ALONG SAID SEAWALL, 109.99 FEET TO AN ANGLE POINT THEREOF; THENCE SOUTH 08 DEGREES 44 MINUTES 17 SECONDS WEST ALONG SAID SEAWALL, 17.67 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 71 DEGREES 11 MINUTES 40 SECONDS WEST, ALONG SAID

SECONDS WEST, ALONG SAID SEAWALL, 60.97 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 13 DEGREES 05 MINUTES 58 SECONDS EAST ALONG SAID SEAWALL, 4.66 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 55 DEGREES 10 MINUTES 09 SECONDS WEST ALONG SAID SEAWALL 75.35 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 37 DEGREES 25 MINUTES 29 SECONDS EAST ALONG SAID SEAWALL, 12.51 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 56 DEGREES 11 MINUTES 02 SECONDS WEST, ALONG SAID SEAWALL, 162.40 FEET, MORE OR LESS, TO A POINT LYING NORTH 21 DEGREES 21 MINUTES 38 SECONDS EAST 41.10 FEET FROM THE POINT OF BEGINNING; THENCE SOUTH 21 DEGREES 21 MINUTES 38 SECONDS WEST, 41.10 FEET TO THE POINT OF BEGINNING (EXCEPT THOSE PARTS FALLING WITHIN PARCEL 19 HEREIN), IN LAKE COUNTY, ILLINOIS.

~~PARCEL 19~~ THAT PART OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 45 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 22; THENCE NORTH, ALONG THE WEST LINE OF SAID SECTION 22, 66 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF A PUBLIC ROADWAY COMMONLY KNOWN AS CITY STREET; THENCE EASTERLY ALONG A LINE FORMING AN INTERIOR ANGLE OF 90 DEGREES 31 MINUTES TO THE LAST DESCRIBED COURSE AND PARALLEL WITH THE EAST AND WEST CENTERLINE OF AFORESAID SECTION 22, 340 FEET TO A POINT ON THE EASTERLY LINE OF A 40 FOOT STRIP OF LAND CONVEYED TO THE CITY OF WAUKEGAN BY THE ELGIN, JOLIET AND EASTERN RAILWAY COMPANY BY DEED OF DEDICATION DATED JUNE 17, 1952; THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID 40 FOOT STRIP OF LAND DEDICATED TO THE CITY OF WAUKEGAN AND PARALLEL WITH THE WEST LINE OF AFORESAID SECTION 22, 424.13 FEET; THENCE NORTHWESTERLY ALONG A LINE 17 DEGREES 58 MINUTES LEFT TO THE LAST DESCRIBED COURSE 322.83 FEET; THENCE NORTHERLY ALONG A LINE 17 DEGREES 47 MINUTES RIGHT TO THE LAST DESCRIBED COURSE 5.23 FEET; THENCE CONTINUING NORTHERLY TANGENT TO THE LAST DESCRIBED COURSE, 155.69 FEET; THENCE NORTHEASTERLY, ALONG A LINE 27 DEGREES 00 MINUTES RIGHT TO THE LAST DESCRIBED COURSE, 466.37 FEET; THENCE CONTINUING NORTHEASTERLY ALONG A LINE 03 DEGREES 56 MINUTES LEFT TO THE LAST DESCRIBED COURSE, 83.84 FEET; THENCE CONTINUING NORTHEASTERLY ALONG A LINE 02 DEGREES 38 MINUTES 23 SECONDS LEFT TO THE LAST DESCRIBED COURSE, 553.38 FEET; THENCE CONTINUING NORTHEASTERLY, ALONG A LINE 27 DEGREES 14 MINUTES 13 SECONDS RIGHT TO THE LAST DESCRIBED COURSE 103.19 FEET; THENCE SOUTHEASTERLY ALONG A LINE 82 DEGREES 23 MINUTES 41 SECONDS RIGHT TO THE LAST DESCRIBED COURSE AND WHICH, FOR THE PURPOSES OF THIS DESCRIPTION SHALL HAVE AN ASSUMED BEARING OF SOUTH 49 DEGREES 41 MINUTES 38 SECONDS EAST, 156.94 FEET, TO THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED, SAID POINT OF BEGINNING BEING A POINT ON THE EAST FACE OF THE STEEL SHEETING LINING THE WESTERLY FACE OF THE WAUKEGAN HARBOR; THENCE CONTINUING SOUTH 49 DEGREES 41 MINUTES 38 SECONDS EAST, ALONG THE LAST DESCRIBED COURSE, 650.98 FEET, MORE OR LESS, TO ITS INTERSECTION WITH A LINE BEARING NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST, HERINAFTER REFERRED TO AS "COURSE A", THE SOUTHERLY TERMINUS OF COURSE A" MORE PARTICULARLY DESCRIBED AS FOLLOWS: (COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST 1/4 IN SECTION 22 AFORESAID; THENCE NORTHEASTERLY MAKING A NORTHEAST ANGLE OF 89 DEGREES 29 MINUTES WITH THE EAST AND WEST QUARTER LINE OF SAID SECTION 22, TO A POINT ON THE NORTH LINE OF CITY STREET, 66 FEET FROM, MEASURED AT RIGHT ANGLES, THE EAST AND WEST QUARTER OF SAID SECTION 22; THENCE EAST WITH AND ALONG THE NORTH LINE OF SAID CITY STREET, PARALLEL WITH THE EAST AND WEST CENTER LINE OF SAID SECTION 22, 585.37 FEET TO A POINT ON THE NORTHWESTERLY LINE OF HARBOR STREET; THENCE NORTHEASTERLY WITH AND ALONG SAID NORTHWESTERLY LINE OF HARBOR STREET AND MAKING A NORTHEASTERLY ANGLE OF 75 DEGREES 12 MINUTES 10 SECONDS WITH THE LAST DESCRIBED COURSE EXTENDED EAST, 119.43 FEET TO A POINT; THENCE EAST, PARALLEL WITH AND 181.47 FEET; FROM, MEASURED AT RIGHT ANGLES THE SAID CENTER LINE OF SECTION 22, 373.61 FEET

TO A POINT; THENCE NORTHEASTERLY MAKING A NORTHEASTERLY ANGLE OF 60 DEGREES 01 MINUTES 15 SECONDS WITH THE LAST DESCRIBED COURSE EXTENDED EAST 417.44 FEET TO A POINT WHICH IS 543.06 FEET NORTH (MEASURED AT RIGHT ANGLES) OF THE EAST AND WEST CENTER LINE OF SECTION 22, AFORESAID, WHICH FOR THE PURPOSE OF REFERENCE IN THIS DESCRIPTION IS HEREINAFTER REFERRED TO AS AN EAST AND WEST LINE HAVING A BEARING OF NORTH 90 DEGREES EAST OR NORTH 90 DEGREES WEST; CONTINUING THENCE NORTH 29 DEGREES 58 MINUTES 45 SECONDS EAST ALONG THE LAST DESCRIBED LINE EXTENDED NORTHEASTERLY, A DISTANCE OF 16.03 FEET TO THE SOUTHERLY TERMINUS OF SAID "COURSE A" HEREIN BEING DESCRIBED); THENCE SOUTH 10 DEGREES 31 MINUTES 36 SECONDS WEST, ALONG SAID "COURSE A" 211.22 FEET; THENCE NORTH 90 DEGREES WEST, 107.11 FEET, MORE OR LESS, TO A POINT ON THE EASTERLY FACE OF THE STEEL SHEETING LINING THE WESTERLY FACE OF THE WAUKEGAN HARBOR; THENCE NORTH 10 DEGREES 17 MINUTES 01 SECONDS; EAST ALONG SAID SHEETING, 65.19 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 17 DEGREES 09 MINUTES 09 SECONDS WEST, ALONG SAID SHEETING, 252.49 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 41 DEGREES 35 MINUTES 22 SECONDS WEST, ALONG SAID SHEETING, 193.99 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 53 DEGREES 26 MINUTES 17 SECONDS WEST, ALONG SAID SHEETING, 230.55 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 32 DEGREES 27 MINUTES 22 SECONDS EAST ALONG SAID SHEETING 48.51 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, IN LAKE COUNTY, ILLINOIS.

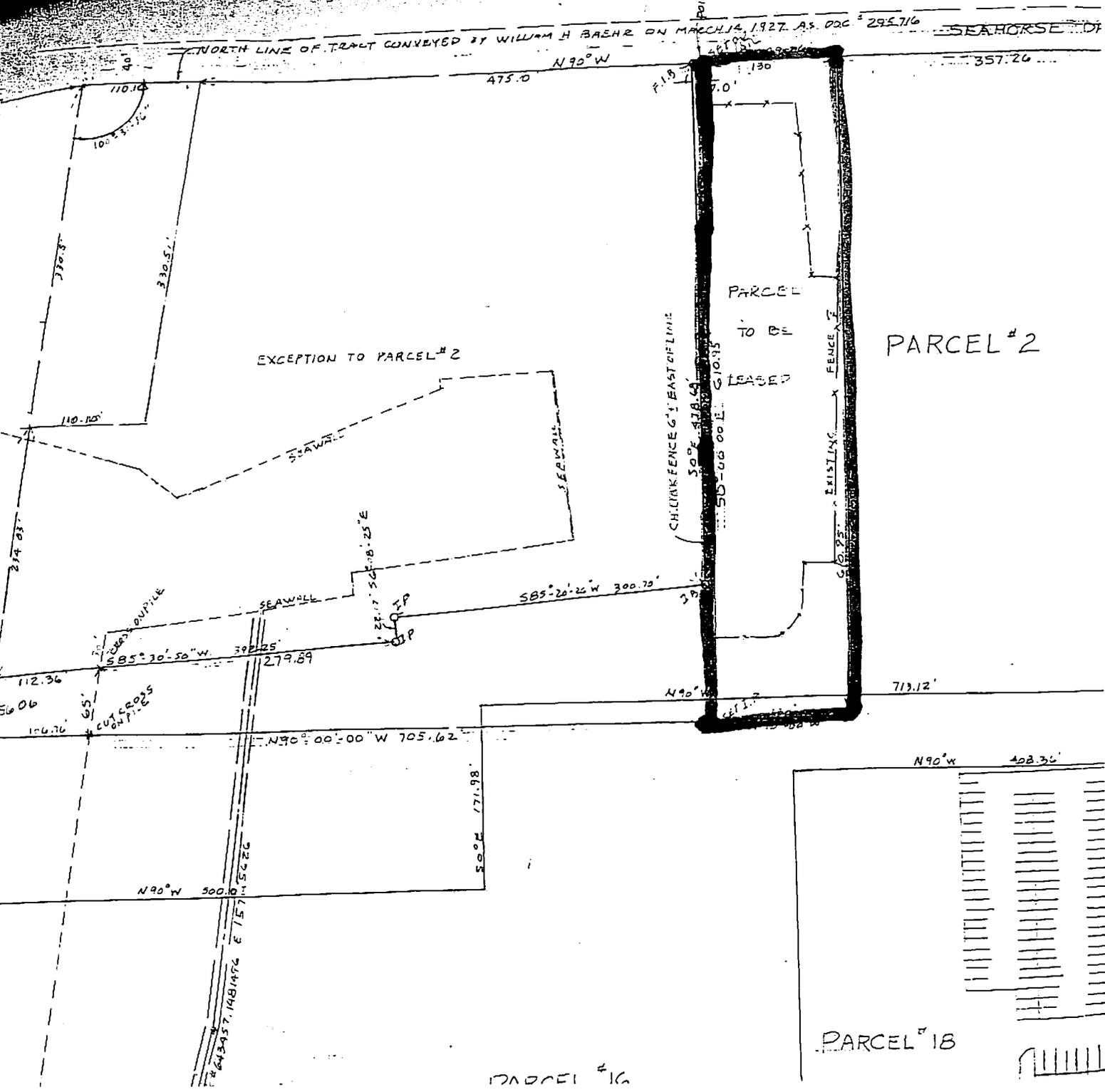
~~PARCELS~~ THAT PART OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 45 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 22; THENCE NORTH, ALONG THE WEST LINE OF SAID SECTION 22, 66 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF A PUBLIC ROADWAY COMMONLY KNOWN AS CITY STREET; THENCE EASTERLY, ALONG A LINE FORMING AN INTERIOR ANGLE OF 90 DEGREES 31 MINUTES TO THE LAST DESCRIBED COURSE AND PARALLEL WITH THE EAST AND WEST CENTERLINE OF AFORESAID SECTION 22, 340 FEET TO A POINT ON THE EASTERLY LINE OF A 40 FOOT STRIP OF LAND CONVEYED TO THE CITY OF WAUKEGAN BY THE ELGIN, JOLIET AND EASTERN RAILWAY COMPANY BY DEED OF DEDICATION DATED JUNE 17, 1952; THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID 40 FOOT STRIP OF LAND DEDICATED TO THE CITY OF WAUKEGAN AND PARALLEL WITH THE WEST LINE OF AFORESAID SECTION 22, 424.13 FEET; THENCE NORTHWESTERLY, ALONG A LINE 17 DEGREES 58 MINUTES LEFT TO THE LAST DESCRIBED COURSE 322.83 FEET; THENCE NORTHERLY ALONG A LINE 17 DEGREES 47 MINUTES RIGHT TO THE LAST DESCRIBED COURSE 5.23 FEET; THENCE CONTINUING NORTHERLY TANGENT TO THE LAST DESCRIBED COURSE, 155.69 FEET; THENCE NORTHEASTERLY, ALONG A LINE 27 DEGREES 00 MINUTES RIGHT TO THE LAST DESCRIBED COURSE, 466.37 FEET; THENCE CONTINUING NORTHEASTERLY ALONG A LINE 03 DEGREES 56 MINUTES LEFT TO THE LAST DESCRIBED COURSE, 83.84 FEET; THENCE CONTINUING NORTHEASTERLY ALONG A LINE 02 DEGREES 38 MINUTES 23 SECONDS LEFT TO THE LAST DESCRIBED COURSE, 553.38 FEET; THENCE CONTINUING NORTHEASTERLY, ALONG A LINE 27 DEGREES 14 MINUTES 13 SECONDS RIGHT TO THE LAST DESCRIBED COURSE 103.19 FEET; THENCE SOUTHEASTERLY, ALONG A LINE 82 DEGREES 23 MINUTES 41 SECONDS RIGHT TO THE LAST DESCRIBED COURSE AND WHICH, FOR THE PURPOSES OF THIS DESCRIPTION SHALL HAVE AN ASSUMED BEARING OF SOUTH 49 DEGREES 41 MINUTES 38 SECONDS EAST 126.70 FEET, TO THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE SOUTH 32 DEGREES 27 MINUTES 22 SECONDS WEST, 80.47 FEET; THENCE SOUTH 53 DEGREES 26 MINUTES 17 SECONDS EAST, 254.85 FEET; THENCE SOUTH 41 DEGREES 35 MINUTES 22 SECONDS EAST, 184.77 FEET; THENCE SOUTH 17 DEGREES 09 MINUTES 09 SECONDS EAST, 303.93 FEET TO THE EASTERLY FACE OF THE STEEL SHEETING LINING THE WESTERLY FACE OF THE WAUKEGAN HARBOR; THENCE NORTH 10 DEGREES 17 MINUTES 01 SECONDS EAST, ALONG SAID SHEETING, 65.19 FEET, TO AN ANGLE POINT THEREON; THENCE NORTH 17 DEGREES 09 MINUTES 09 SECONDS WEST ALONG SAID SHEETING, 259.49 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 41 DEGREES 35 MINUTES 22 SECONDS WEST, ALONG SAID SHEETING, 193.99 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 53 DEGREES 26 MINUTES 17 SECONDS WEST, ALONG SAID SHEETING, 230.55 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 32 DEGREES 27 MINUTES 22 SECONDS EAST, ALONG SAID SHEETING, 48.51 FEET; THENCE NORTH 49 DEGREES 41 MINUTES 38 SECONDS WEST, 30.24 FEET TO THE POINT OF BEGINNING, IN LAKE COUNTY, ILLINOIS.

Case 1:88-cv-08571 Document 171-2 Filed 01/14/2009 Page 82 of 152

EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF A PUBLIC ROADWAY COMMONLY KNOWN AS PERSHING ROAD, SAID POINT BEING THE SOUTHEASTERLY CORNER OF THE PROPERTY DEDICATED BY THE EDGIN, JOLIET AND EASTERN RAILWAY COMPANY TO THE CITY OF WAUKEGAN BY DEED DATED OCTOBER 19, 1953 AND RECORDED AS DOCUMENT NUMBER 809018, BOOK 1214, PAGE 579; THENCE WESTERLY ALONG THE SOUTHERLY RIGHT OF WAY LINE OF SAID PERSHING ROAD, 271.86 FEET TO A POINT; THENCE SOUTHERLY ALONG A LINE FORMING AN INTERIOR ANGLE OF 81 DEGREES 49 MINUTES TO THE LAST DESCRIBED COURSE, 70.99 FEET TO A POINT; THENCE WESTERLY ON A CURVE CONVEX TO THE SOUTH HAVING A RADIUS OF 175 FEET AND BEGINNING TANGENT WHICH FORMS AN ANGLE OF 74 DEGREES 31 MINUTES 40 SECONDS RIGHT TO THE LAST DESCRIBED COURSE EXTENDED AN ARC DISTANCE OF 104.56 FEET TO A POINT 82 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 101 FEET TO A POINT 64 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 47 FEET TO A POINT 54 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE WESTERLY A DISTANCE OF 53 FEET TO A POINT 39 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 45 FEET TO A POINT 24 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 64.86 FEET TO A POINT ON SAID SOUTHERLY LINE OF PERSHING ROAD; THENCE WESTERLY ALONG SAID SOUTHERLY LINE OF PERSHING ROAD, 66.0 FEET, MORE OR LESS, TO A POINT OF CURVE; THENCE CONTINUING WESTERLY ALONG THE SOUTHERLY LINE OF PERSHING ROAD, ON A CURVE CONVEX TO THE NORTHWEST HAVING A RADIUS OF 153.58 FEET, AN ARC DISTANCE OF 108.42 FEET TO A POINT, SAID POINT BEING THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE CONTINUING ALONG SAID CURVE AN ARC DISTANCE OF 24.74 FEET TO A POINT; THENCE SOUTHWESTERLY, TANGENT TO THE END POINT OF THE LAST DESCRIBED COURSE, 11.5 FEET TO A POINT; THENCE SOUTHEASTERLY ALONG A LINE FORMING AN ANGLE OF 82 DEGREES 23 MINUTES 41 SECONDS TO THE RIGHT OF THE LAST DESCRIBED COURSE AND WHICH LINE SHALL HEREINAFTER HAVE A BEARING OF SOUTH 49 DEGREES 41 MINUTES 38 SECONDS EAST FOR PURPOSES OF THIS DESCRIPTION, 712.42 FEET TO A POINT, SAID POINT BEING ON THE EAST EDGE OF STEEL SEAWALL; THENCE NORTH 16 DEGREES 34 MINUTES 23 SECONDS EAST ALONG SAID SEAWALL TO A POINT, SAID POINT BEING THE INTERSECTION OF THE NORTHERLY EDGE OF A 1.1 FOOT WIDE CONCRETE WALL AND THE EASTERLY EDGE OF A 0.5 FOOT CONCRETE WALL AND CONCRETE SLAB, A DISTANCE OF 91.78 FEET; THENCE NORTH 71 DEGREES 38 MINUTES 21 SECONDS WEST ALONG THE NORTHERLY EDGE OF SAID 1.1 FOOT CONCRETE WALL, 1.19 FEET TO A POINT, SAID POINT BEING AN INTERSECTION OF THE NORTHERLY EDGE OF SAID 1.1 FOOT CONCRETE WALL AND THE EASTERLY EDGE OF 0.5 FOOT CONCRETE WALL, SAID 0.5 FOOT CONCRETE WALL HEREINAFTER REFERRED TO AS "CONCRETE WALL"; THENCE NORTH 16 DEGREES 46 MINUTES 11 SECONDS EAST ALONG THE EASTERLY EDGE OF "CONCRETE WALL", 27.64 FEET TO A POINT, SAID POINT BEING THE INTERSECTION OF THE EASTERLY EDGE OF "CONCRETE WALL" AND THE NORTHERLY EDGE OF "CONCRETE WALL"; THENCE NORTH 67 DEGREES 09 MINUTES 29 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE

WALL", 58.83 FEET; THENCE NORTH 84 DEGREES 45 MINUTES 20 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 10.13 FEET; THENCE NORTH 62 DEGREES 48 MINUTES 35 SECONDS WEST ALONG THIS NORTHERLY EDGE OF "CONCRETE WALL", 30.24 FEET; THENCE NORTH 62 DEGREES 02 MINUTES 29 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 19.89 FEET; THENCE NORTH 50 DEGREES 57 MINUTES 10 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 30.08 FEET; THENCE NORTH 37 DEGREES 51 MINUTES 56 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 14.77 FEET; THENCE NORTH 49 DEGREES 39 MINUTES 02 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 24.48 FEET; THENCE NORTH 50 DEGREES 50 MINUTES 45 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 22.87 FEET; THENCE NORTH 57 DEGREES 16 MINUTES 07 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 90.33 FEET; THENCE SOUTH 81 DEGREES 48 MINUTES 16 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 5.43 FEET; THENCE NORTH 57 DEGREES 39 MINUTES 24 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 27.68 FEET; THENCE NORTH 47 DEGREES 18 MINUTES 47 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 19.68 FEET; THENCE NORTH 04 DEGREES 26 MINUTES 49 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 5.36 FEET; THENCE NORTH 53 DEGREES 36 MINUTES 16 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 14.44 FEET; THENCE NORTH 44 DEGREES 31 MINUTES 21 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 30.14 FEET; THENCE NORTH 66 DEGREES 05 MINUTES 35 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 6.64 FEET; THENCE NORTH 49 DEGREES 52 MINUTES 29 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 33.48 FEET; THENCE NORTH 52 DEGREES 19 MINUTES 13 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 9.77 FEET; THENCE NORTH 56 DEGREES 55 MINUTES 34 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 50.18 FEET; THENCE NORTH 59 DEGREES 46 MINUTES 31 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 10.12 FEET; THENCE NORTH 65 DEGREES 21 MINUTES 42 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 10.00 FEET; THENCE NORTH 69 DEGREES 17 MINUTES 45 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 19.98 FEET TO THE WEST END OF THE SAID "CONCRETE WALL"; THENCE NORTH 53 DEGREES 10 MINUTES 45 SECONDS WEST, 125.08 FEET TO THE POINT OF BEGINNING, IN LAKE COUNTY, ILLINOIS.

EXHIBIT G



EXCEPTION TO PARCEL #2

PARCEL #2

PARCEL #18

PARCEL #16

NORTH LINE OF TRACT CONVEYED BY WILLIAM H BAEHR ON MARCH 14, 1927. A.S. DOC # 295716 SEAHORSE OF

POINT STAKE

PARCEL TO BE LEASED

CHICK FENCE 6' EAST OF LINE

EXISTING FENCE

SEAWALL

SEAWALL

DUPPILE

CUT CROSS

56.06

106.76

112.36

585°30'50"W

392.25

279.89

214.85

110.10

330.51

310.3

40'

100°33'16"

475.0

N90°W

61.05

7.0'

130

357.26

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

61.05

EXHIBIT H

PARCEL OF LAND TO BE LEASED TO LARSEN MARINE CO. BY THE CITY OF
WAUKEGAN SOUTH OF SEAHORSE DRIVE

THAT PART OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 45 NORTH RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN BOUNDED BY A LINE DESCRIBED AS FOLLOWS TO-WIT; COMMENCING AT THE NORTHWEST CORNER OF DOCUMENT # 295716, BEING A PARCEL CONVEYED BY WILLIAM H. BAEHR ON MARCH 14, 1927 AS DOCUMENT #295716, THENCE NORTH 90°-00' EAST, ALONG THE NORTH LINE OF SAID DOCUMENT #295716, A DISTANCE OF 592.10 FEET TO THE PLACE OF BEGINNING; THENCE CONTINUING NORTH 90°-00' EAST, A DISTANCE OF 130.0 FEET; THENCE SOUTH 0°-00' EAST, A DISTANCE OF 610.95 FEET; THENCE SOUTH 90°-00' WEST, A DISTANCE OF 130.0 FEET; THENCE NORTH 0°-00' EAST, A DISTANCE OF 610.95 FEET, TO THE PLACE OF BEGINNING, ALL IN THE CITY OF WAUKEGAN, ILLINOIS. PARCEL CONTAINS 79,423 SQ.FT.

EXHIBIT I

LEASE (Option Property to East)

This Lease is made and entered into this _____ day of _____, 2006, by and between the City of Waukegan (hereinafter referred to as "Lessor") and Larsen Marine Services, Inc., an Illinois corporation (hereinafter referred to as "Lessee").

WHEREAS, Lessor and Lessee have entered into a Final Settlement Stipulation in the matter of *Larsen Marine Services, Inc. v. City of Waukegan*, General No. 02 MR 1333 in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois; and

WHEREAS, that Settlement Stipulation contemplates that Lessor will enter into a lease with Lessee for the property referred to as "Leased Option Premises" in the Final Settlement Stipulation, as shown on Exhibit A and legally described on Exhibit B attached hereto and made a part hereof (hereinafter referred to as "Premises"); and

NOW THEREFORE, for and in consideration of the terms and conditions of the Final Settlement Stipulation, and furthermore in consideration of the following covenants and agreements, the sufficiency of which is hereby acknowledged, the parties agree upon the following terms and conditions for this lease:

1. **Term.** The term of this lease agreement will be until a developer has received any and all necessary approvals and permits from Waukegan and any other necessary governmental approvals and permits for a residential and ancillary use development and is actually ready to begin earthwork as part of the construction of that residential development, or for a period of 99 years, whichever comes first.

2. **Purpose:** Lessor hereby agrees to lease to Lessee the Premises and real estate as shown on Exhibit A and legally described on Exhibit B for marine commercial purposes, as defined in the Final Settlement Stipulation in the matter of *Larsen Marine Services, Inc. v. City of Waukegan*, General No. 02 MR 1333 in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois, but Lessee shall not have the right to construct any buildings or permanent structures on the leased Premises. Lessee shall have the right to fence the Premises for any marine commercial purposes, including but not limited to boat storage, and any marine commercial uses by Lessee shall be considered legally non-conforming uses and permitted by Lessor.

3. **Rent:** The rent for the leased Premises shall be Ten and 00/100 (\$10.00) Dollars per year, payable on the _____ day of _____ of each year.

4. **Utilities:** Lessor shall have no responsibility to provide water, electricity, gas, power, heat, air conditioning, or any other utility service to said Premises, but Lessee shall have the right and sole responsibility to provide such utilities.

5. **Use and Maintenance of Premises:**

- A. Lessee covenants and agrees that the Premises shall be used for marine commercial purposes, including but not limited to boat storage, and that Lessee shall not permit said Premises to be used for any other purpose. Lessee further covenants and agrees not to permit or suffer any waste, misuse or neglect of in or upon the Premises or any part thereof. Lessee shall comply with all applicable laws, including consent decrees, affecting the leased Premises.
- B. Lessee shall have the right to erect reasonable signage in compliance with all local applicable laws affecting the Premises.
- C. Upon termination of the lease, Lessee shall have the right but not the duty to remove any fencing or other fixtures which may have been placed on the Premises. Any and all fencing or other improvements or fixtures which may be made or installed by Lessee upon the Premises, and which shall not be removed at the termination of this lease, shall thereafter become the property of the Lessor.
- D. Lessee covenants and agrees to keep the Premises in good repair and in a clean condition at Lessee's own expense. Lessee shall be responsible for any and all repairs in and upon said Premises for improvements constructed by Lessee. Lessor shall be solely responsible for any repairs required to comply with the requirements of the United States Environmental Protection Agency as well as any other repairs, work, remediation, or any other type of action required as a result of the known or unknown environmental condition of the Premises, except for environmental conditions occurring after the date Lessee takes possession of the Premises and are caused by Lessee's use of the Premises. Lessee further covenants and agrees that any improvements to the Premises by Lessee and the use of the Premises by Lessee shall comply with all applicable laws and ordinances in accordance with the terms of the Final Settlement Stipulation in 02 MR 1333.

6. **Landlord's Warranties and Covenants:** Landlord covenants, represents and warrants as follows:

- A. Possession. The Premises are free and clear of all tenancies, whether oral or written and that tenant shall have the sole, exclusive and actual possession of the Premises from the date of this lease until termination of this lease.

- B. Covenant of Title. Landlord has good title to the Premises and the Premises are free and clear of all liens, encumbrances, easements, tenancies, or restrictions, other than those shown on the Title Commitment of Chicago Title Insurance Company, # _____, dated _____. Landlord will defend the title and will indemnify tenant against any damage and expense which tenant may suffer by reason of any claim against title or defect in the title or description of the Premises.

 - C. The Premises are included in the real estate which is governed by a Remedial Action Consent Decree in the case of *United State of America and State of Illinois v. City of Waukegan, et al.*, No. _____, which was pending in the United States District Court for the Northern District of Illinois. Lessor covenants and warrants that the use of the Premises by Lessee for marine commercial purposes, including but not limited to the storage of boats, is not in violation of the Remedial Action Consent Decree and that any notices or action required by the Remedial Action Consent Decree resulting from the lease of the Premises has been accomplished by Lessor. Lessor agrees to be solely responsible for the environmental condition or damage of the Premises and all required work or remedial action will be the sole responsibility of Lessor except for environmental conditions occurring after the date Lessee takes possession of the Premises and are caused by Lessee's use of the Premises. This warranty shall survive the termination of this Lease.

 - D. Non-Conforming Use. Lessor agrees that the use of the Premises by Lessee for marine commercial purposes, include but not limited to the storage of boats, is a legal non-conforming use and does not require any further action by Lessee to be in compliance with the zoning ordinance of Lessor.
7. **Tenant's Covenants:** Tenant covenants, warrants and agrees as follows:
- A. Rent. To pay the rent on the days and in the manner provided in this lease.

 - B. Repairs. To keep the Premises in a safe and good condition and repair, subject to ordinary wear and tear.

 - C. Compliance with Law. To comply with all governmental laws, rules and regulations applicable to the marine commercial use of the Premises.

- D. Contamination. Not to take any action or allow any use of the Premises which would cause additional environmental contamination of the Premises.
- E. Prospective Developer's Right to Inspect. To permit any prospective future Developer of the Premises the right to access the Premises for the purpose of inspecting the Premises and performing such tests as may be necessary to determine whether the Premises are suitable to the planned development of the Premises. Lessor agrees that any inspection, access or testing upon the Premises will be pursuant to an agreement that the prospective Developer shall not interfere with Lessee's use of the Premises and that the prospective Developer shall indemnify Lessee for any damage to lessee's property that may result from the prospective Developer's activities on the Premises.
- F. Cooperation with Lessor. During the term of this Lease, Lessor may undertake to clear certain of the liens, Encumbrances, easements, tenancies and restrictions that are shown on the Chicago Title Insurance Company Title Commitment #_____. All of this work shall be performed by Lessor at no expense or cost to Lessee. Lessee shall cooperate with Lessor, upon Lessor's reasonable request, securing the release of any of the foregoing listed exceptions to title.

8. Indemnity and Insurance:

- A. Lessor covenants and agrees that it will protect and save and keep Lessee forever harmless and fully indemnified against and from any and all claims, loss, costs, expense, penalty, damage or charges which result from the existing environmental condition of the Premises, including but not limited to those conditions which caused the United States Environmental Protection Agency to include the Premises as a super fund site on the national priorities list, set forth in 40 CFR Part 300, Appendix B, as published in the Federal Register on September 8, 1983. Lessor will at all times protect, indemnify, save and keep the Lessee harmless against and from any and all claims, loss, costs, claims of personal injury or property damage, any other damage, or expense arising out of the environmental contamination or condition of the Premises, including but not limited to those environmental conditions which caused the United States Environmental Protection Agency to include the Premises on the national priorities list, set forth at 40 CFR Part 300, Appendix B, as published in the Federal Register on September 8, 1983, except for environmental conditions caused by Lessee's use of the Premises. This warranty shall survive the termination of this Lease.

- B. Lessor covenants and agrees that it shall be solely responsible for any and all environmental remediation, repairs, work, or any other actions which may need to be taken in the future as a result of the environmental contamination or condition of the Premises which caused the United States Environmental Protection Agency to include the Premises as a super fund site on the national priorities list, set forth in 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on September 8, 1983, and will save and keep the Lessee forever harmless and indemnified against and from any loss, cost, expense, penalty, damage or charges imposed for any such environmental condition, cleanup or remediation, except for environmental conditions caused by Lessee's use of the Premises. This warranty shall survive the termination of this Lease.

- C. Lessee covenants and agrees that it will protect and save and keep Lessor forever harmless and indemnified against and from any loss, cost, expense, penalty, damage or charges imposed occasioned by the neglect of Lessee or Lessee's employees, agents, customers and invitees, and that Lessee will at all times protect, indemnify and save and keep harmless the Lessor against and from any and all loss, cost, damage or expense arising out of or from any accident or other occurrence on or about the said Premises causing injury to any person or property as a result of the use of the Premises by Lessee or Lessee's employees, agents, customers or invitees.

- D. Lessee further covenants and agrees that at all times during this lease it will secure and maintain insurance in a good and responsible insurance company satisfactory to Lessor, insuring said Lessor against claims for damages to property and/or for personal injury or death claimed to have been caused on or about the Premises as a result of the use of the Premises by Lessee, or alleged to have been caused by reason of any negligence in the care and maintenance of the Premises, with the limits no less than \$1,000,000 as to the claim of any one person and not less than \$2,000,000 as to the claims of more than one person arising out of any one incident or occurrence. Said liability insurance policy shall be issued in the name of Lessee and the Lessor shall be named as an additional insured, and said insurance shall be paid for by Lessee, and Lessee shall provide proof of such insurance to Lessor upon demand.

- E. Lessee shall not permit any mechanic's liens to be placed against the Premises, and if any such mechanic's lien is placed against the Premises Lessee shall within 20 days cause the same to be removed

or in good faith contest the same and diligently proceed and continue to proceed to do so.

9. **Subletting and Assignment:** Lessee covenants and agrees that Lessee shall not allow the Premises to be occupied in whole or part by any other person, and shall not sublet the same nor any part thereof, nor assign this lease, without first obtaining the written consent of Lessor which such consent shall not unreasonably be withheld.

10. **Termination of Lease:** Lessee has agreed that this lease will terminate when a developer has received any and all necessary approvals and permits from Lessor and any other necessary governmental approvals and permits for a residential and ancillary use development and that developer is actually ready to begin earthwork as part of the construction of that residential and ancillary use development. Lessor agrees to provide such written notice at least 120 days prior to terminating this lease. Lessee agrees to vacate the Premises within 120 days of receiving such written notice from Lessor. If tenant continues to occupy the Premises after 120 days of receiving the written notice described above, then Lessor, in addition to other legal rights, shall have the right to petition the Circuit Court of Lake County, Illinois, in the case of *Larsen Marine Services, Inc. v. City of Waukegan*, General No. 02 MR 1333, for an order of possession.

11. **Abandonment:** If Lessee shall vacate or abandon the Premises or permit the same to be vacant or unoccupied for a period of 60 days, or if Lessee shall be declared insolvent or bankrupt by any court, then Lessee's right to possession of the Premises shall terminate upon 10 days written notice from Lessor to Lessee.

12. **Cancellation of Prior Lease and License and Right of Entry:** Upon execution of this Lease, the previous lease agreement between Lessee and Outboard Marine Corporation and the previous license and right of entry filed in *Larsen Marine Services, Inc. v. City of Waukegan*, 02 MR 1333, will be deemed to be cancelled and declared null and void.

13. **Real Estate Taxes:** Lessor shall be responsible for the payment of all real estate taxes, if any, which may be imposed on the Premises at any time during the term of this lease and shall promptly pay any such taxes before they become due and delinquent.

14. **Landlord Remedies:** If Lessee fails to pay the rent when due and continues to be in default for failure to pay rent after thirty (30) days written notice from Lessor, or if Lessee fails to perform any other obligation under this Lease after thirty (30) days written notice from Lessor, then Lessor may declare the Lease null and void or seek a court order under *Larsen Marine Services, Inc. v. City of Waukegan*, 02 MR 1333, to require compliance with the terms of this lease. If any default shall occur which in due diligence cannot be cured within (30) days, and Lessee begins to take the necessary actions within the thirty (30) day period, then Lessee shall not be in default and shall be given a

reasonable time to cure that default. These remedies are in addition to all other remedies Lessor may have in law or equity.

15. **Tenant Remedies:** Lessor acknowledges that Lessee is relying on all of the covenants, warranties, representations and agreements in this Lease and all such matters so represented are material. Lessor accordingly agrees to take all necessary actions to correct any default in the terms of this Lease within thirty (30) days after written notice from Lessee. If Lessor fails to cure such default within thirty (30) days, then Lessee may seek a court order under *Larsen Marine Services, Inc. v. City of Waukegan*, 02 MR 1333, to require compliance with the terms of this lease, or at its option, may cure Lessor's default and Lessee shall be responsible for the payment of any fees and costs incurred by Lessee to cure said default. These remedies are in addition to all other remedies Lessee may have in law or equity.

16. **Attorneys' Fees:** If Lessee is required to file a petition to enforce the terms of this lease under *Larsen Marine Services, Inc. v. City of Waukegan*, 02 MR 1333, or files any other action to enforce the terms of this lease, and if Lessee prevails in any such action, then Lessee shall be entitled to an award of all reasonable attorneys' fees and costs incurred by Lessee in that action. If Lessor is required to file a petition to enforce the terms of this lease under *Larsen Marine Services, Inc. v. City of Waukegan*, 02 MR 1333, or files any other action to enforce the terms of this lease, and if Lessor prevails in any such action, then Lessor shall be entitled to an award of all reasonable attorneys' fees and costs incurred by Lessor in that action.

17. **Miscellaneous Provisions:**

- A. **Successors and Assigns:** The terms, agreements, covenants, and warranties shall be binding on and shall inure to the benefit Lessor and Lessee, and their respective heirs, personal representatives, executors, administrators, successors, and assign, and shall run with the land.
- B. **Writing:** No waivers, alterations, modifications, or amendments of this Lease or any written agreements in connection with this lease shall be valid unless agreed to in writing by the parties.
- C. **Notice:** All notices or demands required hereunder or which any of the parties deem desirable to make, serve, or give shall be in writing, signed by the party or its attorney, sent by certified mail, return receipt requested, postage prepaid, or by overnight mail with written delivery confirmation, and

(a) if intended for Lessor shall be sent to:

(b) if intended for Lessee shall be sent to:

- D. Authority to Sign: Any person signing this lease represents and warrants that he or she has full authority to do so and that its execution has been duly authorized.
- E. Construction: This lease shall be construed and interpreted in accordance with the laws of the State of Illinois and in accordance with the Final Settlement Stipulation in *Larsen Marine Services, Inc. v. City of Waukegan, 02 MR 1333*. If any provision of this lease shall be declared to be invalid or unenforceable by any court of competent jurisdiction, such provision shall be deemed severable, and such invalidity or unenforceability shall not affect any other provisions of this Lease.

IN WITNESS WHEREOF the parties have executed this Lease the day and year first written above.

Lessor: City of Waukegan

Lessee: Larsen Marine Services, Inc.

By: _____
Mayor Hyde

By: _____
President

Attest: _____
City Clerk

EXHIBIT A

To lose

EXHIBIT B

to lease

PARCEL OF LAND TO BE LEASED TO LARSEN MARINE CO. BY THE CITY OF
WAUKEGAN SOUTH OF SEAHORSE DRIVE

THAT PART OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 45 NORTH RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN BOUNDED BY A LINE DESCRIBED AS FOLLOWS TO-WIT; COMMENCING AT THE NORTHWEST CORNER OF DOCUMENT # 295716, BEING A PARCEL CONVEYED BY WILLIAM H. BAEHR ON MARCH 14, 1927 AS DOCUMENT #295716, THENCE NORTH 90°-00' EAST, ALONG THE NORTH LINE OF SAID DOCUMENT #295716, A DISTANCE OF 592.10 FEET TO THE PLACE OF BEGINNING; THENCE CONTINUING NORTH 90°-00' EAST, A DISTANCE OF 130.0 FEET; THENCE SOUTH 0°-00' EAST, A DISTANCE OF 610.95 FEET; THENCE SOUTH 90°-00' WEST, A DISTANCE OF 130.0 FEET; THENCE NORTH 0°-00' EAST, A DISTANCE OF 610.95 FEET, TO THE PLACE OF BEGINNING, ALL IN THE CITY OF WAUKEGAN, ILLINOIS. PARCEL CONTAINS 79,423 SQ.FT.

EXHIBIT J

EXHIBIT K

PARCEL OF LAND ON THE EAST SIDE OF THE HARBOR TO BE GRANTED TO THE LARSEN MARINE CO. BY THE CITY OF WAUKEGAN

A TRACT OF LAND IN THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 45 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS; TO-WIT: COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST 1/4 IN WAUKEGAN TOWNSHIP LAKE COUNTY, ILLINOIS, THENCE NORTHEASTERLY MAKING A NORTHEAST ANGLE OF 89 DEGREES 29 MINUTES WITH THE EAST AND WEST QUARTER LINE OF SAID SECTION 22, TO A POINT ON THE NORTH LINE OF CITY STREET 66 FEET FROM, MEASURED AT RIGHT ANGLES, THE EAST AND WEST QUARTER OF SAID SECTION 22; THENCE EAST WITH AND ALONG THE NORTH LINE OF SAID CITY STREET, PARALLEL WITH THE EAST AND WEST CENTER LINE OF SAID SECTION 22, 585.37 FEET TO A POINT ON THE NORTHWESTERLY LINE OF HARBOR STREET; THENCE NORTHEASTERLY WITH AND ALONG SAID NORTHWESTERLY LINE OF HARBOR STREET AND MAKING A NORTHEASTERLY ANGLE OF 75 DEGREES 12 MINUTES 10 SECONDS WITH THE LAST DESCRIBED COURSE EXTENDED EAST, 119.43 FEET TO A POINT; THENCE EAST PARALLEL WITH AND 181.47 FEET FROM, MEASURED AT RIGHT ANGLES, THE CENTER LINE OF SAID SECTION 22, 373.61 FEET TO A POINT; THENCE NORTHEASTERLY MAKING A NORTHEASTERLY ANGLE OF 60 DEGREES 01 MINUTES 15 SECONDS WITH LAST DESCRIBED COURSE EXTENDED EAST 417.44 FEET TO A POINT WHICH IS 543.06 FEET NORTH (MEASURED AT RIGHT ANGLES) OF THE EAST AND WEST CENTER LINE OF SECTION 22, AFORESAID, WHICH FOR THE PURPOSE OF REFERENCE IN THIS DESCRIPTION IS HEREINAFTER REFERRED TO AS AN EAST AND WEST LINE HAVING A BEARING OF NORTH 90 DEGREES EAST OR NORTH 90 DEGREES WEST; CONTINUING THENCE NORTH 29 DEGREES 58 MINUTES 45 SECONDS EAST ALONG THE LAST DESCRIBED LINE EXTENDED NORTHEASTERLY, A DISTANCE OF 16.03 FEET TO A POINT; THENCE NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST A DISTANCE OF 808.80 FEET TO THE PLACE OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE CONTINUING NORTH 10 DEGREES, 31 MINUTES 36 SECONDS EAST, A DISTANCE OF 56.06 FEET; THENCE NORTH 85 DEGREES 30 MINUTES 50 SECONDS EAST, A DISTANCE OF 392.25 FEET; THENCE NORTH 06 DEGREES 08 MINUTES 25 SECONDS WEST, A DISTANCE OF 22.17 FEET; THENCE NORTH 85 DEGREES 20 MINUTES 26 SECONDS EAST, A DISTANCE OF 300.70 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 478.68 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 7.00 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 610.95 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 705.62 FEET, TO THE PLACE OF BEGINNING OF THIS PARCEL. PARCEL CONTAINS 67,862 SQ.FT.

EXHIBIT L

EXHIBIT M

THAT PART OF THE NORTH 1/2 OF SECTION 22, TOWNSHIP 45 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN BOUNDED BY A LINE DESCRIBED AS FOLLOWS TO-WIT: COMMENCING AT THE NORTHWEST CORNER OF DOCUMENT #295716, BEING A PARCEL CONVEYED BY WILLIAM H. BAEHR ON MARCH 14, 1927 AS DOCUMENT #295716, THENCE NORTH 90°-00' EAST, ALONG THE NORTH LINE OF SAID DOCUMENT #295716 A DISTANCE OF 704.39 FEET; THENCE NORTH 0°-00' EAST, A DISTANCE OF 40.0 FEET, TO THE POINT OF BEGINNING OF THE PARCEL BEING DESCRIBED; SAID POINT OF BEGINNING BEING ON THE NORTHERLY RIGHT OF WAY LINE OF SEAHORSE DRIVE; THENCE NORTH 0°-00' EAST, A DISTANCE OF 311.61 FEET; THENCE NORTH 90°-00' WEST, A DISTANCE OF 131.91 FEET; THENCE SOUTH 0°-00' EAST, A DISTANCE OF 183.00 FEET; THENCE NORTH 90°-00' WEST, A DISTANCE OF 122.00 FEET; THENCE SOUTH 0°-00' EAST, A DISTANCE OF 45.00 FEET; THENCE NORTH 90°-00' WEST, A DISTANCE OF 128.00 FEET; THENCE NORTH 0°-00' EAST, A DISTANCE OF 150.81 FEET; THENCE NORTH 90°-00' WEST, A DISTANCE OF 344.00 FEET; THENCE SOUTH 0°-00' EAST, A DISTANCE OF 192.56 FEET, TO THE NORTHERLY RIGHT OF WAY LINE OF SEAHORSE DRIVE; THENCE SOUTH 81°-58'-02" EAST, ALONG THE NORTHERLY RIGHT OF WAY LINE OF SEAHORSE DRIVE, A DISTANCE OF 299.56 FEET; THENCE NORTH 90°-00' EAST, ALONG THE NORTHERLY RIGHT OF WAY LINE OF SEAHORSE DRIVE, A DISTANCE OF 429.29 FEET, TO THE POINT OF BEGINNING. ALL IN THE CITY OF WAUKEGAN, LAKE COUNTY, ILL. PARCEL CONTAINS 3.2582 ACRES.

EXHIBIT N

LEASE (North Plant)

This Lease is made and entered into this _____ day of _____, 2006, by and between the City of Waukegan (hereinafter referred to as "Lessor") and Larsen Marine Services, Inc., an Illinois corporation (hereinafter referred to as "Lessee").

WHEREAS, Lessor and Lessee have entered into a Final Settlement Stipulation in the matter of *Larsen Marine Services, Inc. v. City of Waukegan*, General No. 02 MR 1333 in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois; and

WHEREAS, that Settlement Stipulation contemplates that Lessor will enter into a lease with Lessee for the property referred to as "North Plant Leased Premises" in the Final Settlement Stipulation, as shown on Exhibit A and legally described on Exhibit B attached hereto and made a part hereof (hereinafter referred to as "Premises"); and

NOW THEREFORE, for and in consideration of the terms and conditions of the Final Settlement Stipulation, and furthermore in consideration of the following covenants and agreements, the sufficiency of which is hereby acknowledged, the parties agree upon the following terms and conditions for this lease:

1. **Term.** The term of this lease agreement shall be for a period of up to three years from December 20, 2005, until Slip #3 is ready for marine commercial purposes by Lessee, as defined in the Final Settlement Stipulation in the matter of *Larsen Marine Services, Inc. v. City of Waukegan*, General No. 02 MR 1333 in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois, If Slip#3 is not ready for marine commercial purposes by Lessee, as defined in the Final Settlement Stipulation in the matter of *Larsen Marine Services, Inc. v. City of Waukegan*, General No. 02 MR 1333 in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois, within three years from December 20, 2005, or any extension thereof, then this lease shall continue for a period of ninety-nine years.

2. **Purpose:** Lessor hereby agrees to lease to Lessee the Premises and real estate as shown on Exhibit A and legally described on Exhibit B for marine commercial purposes as defined in the Final Settlement Stipulation in the matter of *Larsen Marine Services, Inc. v. City of Waukegan*, General No. 02 MR 1333 in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois, except that Lessee shall not have the right to construct permanent structures or buildings for the first three years of this lease or any extension thereof pursuant to the exercise of an option described in paragraph 14 of the Final Settlement Stipulation. Lessee shall have the right to fence the Premises for boat storage or other marine commercial purposes during the first three years of this lease. The use of the Premises for marine commercial purposes for the first three years of this lease shall be considered to be a legal non-conforming use.

3. **Rent:** The rent for the leased Premises shall be Ten and 00/100 (\$10.00) Dollars per year, payable on the _____ day of _____ of each year.

4. **Utilities:** Lessor shall have no responsibility to provide water, electricity, gas, power, heat, air conditioning, or any other utility service to said Premises, but Lessee shall have the right and sole responsibility to provide such utilities.

5. **Use and Maintenance of Premises:**

- A. Lessee covenants and agrees that the Premises shall be used for marine commercial purposes, including but not limited to the right but not the obligation to construct and maintain buildings, underground utilities, overhead utilities, parking areas, access areas, fencing, and boat storage areas. No buildings or permanent structures shall be constructed during the first three years of this lease or any extension thereof pursuant to the exercise of an option described in paragraph 4 of the Final Settlement Stipulation. Lessee further covenants and agrees not to permit or suffer any waste, misuse or neglect of in or upon the Premises or any part thereof. Lessee shall comply with all applicable laws, including consent decrees, affecting the leased Premises.
- B. Lessee shall have the right to erect reasonable signage in compliance with all local applicable laws affecting the Premises.
- C. Upon termination of the lease, Lessee shall have the right but not the duty to remove any buildings, fixtures, improvements, or fencing which may have been placed on the Premises. Any and all such improvements or fixtures which may be made or installed by Lessee upon the Premises, and which shall not be removed at the termination of this lease, shall thereafter become the property of the Lessor.
- D. Lessee covenants and agrees to keep the Premises in good repair and in a clean condition at Lessee's own expense. Lessee shall be responsible for any and all repairs in and upon said Premises for improvements constructed by Lessee. Lessor shall be solely responsible for any repairs required to comply with the requirements of the United States Environmental Protection Agency as well as any other repairs, work, remediation, or any other type of action required as a result of the known or unknown environmental condition of the Premises, except for environmental conditions occurring after the date Lessee takes possession of the Premises and are caused by Lessee's use of the Premises. Lessee further covenants and agrees that any improvements to the Premises by Lessee and the use of the Premises by Lessee shall comply with all applicable laws and ordinances in accordance with the terms of the Final Settlement Stipulation in 02 MR 1333.

6. **Landlord's Warranties and Covenants:** Landlord covenants, represents and warrants as follows:

- A. Possession. The Premises are free and clear of all tenancies, whether oral or written and that tenant shall have the sole, exclusive and actual possession of the Premises from the date of this lease until termination of this lease.

- B. Covenant of Title. Landlord has good title to the Premises and the Premises are free and clear of all liens, encumbrances, easements, tenancies, or restrictions, other than those shown on the Title Commitment of Chicago Title Insurance Company, # _____, dated _____. Landlord will defend the title and will indemnify tenant against any damage and expense which tenant may suffer by reason of any claim against title or defect in the title or description of the Premises.

- C. The Premises included in the real estate are known to be environmentally contaminated and are subject to current investigation as to the nature and extent of that contamination. The Premises may be subject to remedial action as will be approved by the United States Environmental Protection Agency or other governmental agencies. Lessor covenants and warrants that the use of the Premises by Lessee for marine commercial purposes will be permitted in any approved remedial actions or any agreements with the United States Environmental Protection Agency or other governmental agencies. Lessor further covenants and warrants that any required notices or action required by or resulting from the lease of the Premises has been accomplished by Lessor. Lessor further covenants and warrants that all necessary legal, regulatory, title, construction, and all other required permits will be obtained by Lessor for the remedial work or action work required by the United States Environmental Protection Agency or other governmental agencies. Lessor agrees to be solely responsible for the environmental condition or damage of the Premises and will cause the Premises to be cleaned up and remediated in a reasonable time, except for environmental conditions occurring after the date Lessee takes possession of the Premises and are caused by Lessee's use of the Premises. All such work or remedial action will be the sole responsibility of Lessor so that the Premises can continue to be used by Lessee for marine commercial purposes. This warranty shall survive the termination of the this Lease.

7. **Tenant's Covenants:** Tenant covenants, warrants and agrees as follows:
- A. Rent. To pay the rent on the days and in the manner provided in this lease.
 - B. Repairs. To keep the Premises in a safe and good condition and repair, subject to ordinary wear and tear.
 - C. Compliance with Law. To comply with all governmental laws, rules and regulations applicable to the marine commercial use of the Premises.
 - D. Contamination. Not to take any action or allow any use of the Premises which would cause additional environmental contamination of the Premises.
 - E. Prospective Developer's Right to Inspect. During the first three years of this lease or any extension of that time period pursuant to the exercise of an option as described in paragraph 14 of the Final Settlement Stipulation, Lessee agrees to permit any prospective future Developer of the Premises the right to access the Premises for the purpose of inspecting the Premises and performing such tests as may be necessary to determine whether the Premises are suitable to the planned development of the Premises. Lessor agrees that any inspection, access or testing upon the Premises will be pursuant to an agreement that the prospective Developer shall not interfere with Lessee's use of the Premises and that the prospective Developer shall indemnify Lessee for any damage to lessee's property that may result from the prospective Developer's activities on the Premises.
 - F. Cooperation with Lessor. During the first three years of this lease or any extension of that time period pursuant to the exercise of an option as described in paragraph 14 of the Final Settlement Stipulation, Lessor may undertake steps to clear certain liens, encumbrances, easements, tenancies and restrictions that are shown on the Chicago Title Insurance Company Title Commitment #_____. All of this work shall be performed by Lessor at no expense or cost to Lessee. Lessee shall cooperate with Lessor, upon Lessor's reasonable request, securing the release of any of the foregoing listed exceptions to title.

8. **Indemnity and Insurance:**

- A. Lessor covenants and agrees that it will protect and save and keep Lessee forever harmless and fully indemnified against and from any and all claims, loss, costs, expense, penalty, damage or charges which result from the existing environmental condition of the Premises, and Lessor will at all times protect, indemnify, save and keep the Lessee harmless against and from any and all claims, loss, costs, claims of personal injury, or property damage, any other damage or expense arising out of the environmental condition of the premises, except for environmental conditions caused by Lessee's use of the Premises. This warranty shall survive the termination of this Lease.
- B. Lessor covenants and agrees that it shall be solely responsible for any and all environmental remediation, repairs, work, or any other actions which may need to be taken in the future as a result of the environmental contamination or condition of the Premises, and will save and keep the Lessee forever harmless and fully indemnified against and from any loss, cost, expense, penalty, damage or charges imposed for any environmental condition, cleanup, or remediation, except for environmental conditions caused by Lessee's use of the Premises. This warranty shall survive the termination of this Lease.
- C. Lessee covenants and agrees that it will protect and save and keep Lessor forever harmless and indemnified against and from any loss, cost, expense, penalty, damage or charges imposed occasioned by the neglect of Lessee or Lessee's employees, agents, customers and invitees, and that Lessee will at all times protect, indemnify and save and keep harmless the Lessor against and from any and all loss, cost, damage or expense arising out of or from any accident or other occurrence on or about the said Premises causing injury to any person or property as a result of the use of the Premises by Lessee or Lessee's employees, agents, customers or invitees.
- D. Lessee further covenants and agrees that at all times during this lease it will secure and maintain insurance in a good and responsible insurance company satisfactory to Lessor, insuring said Lessor against claims for damages to property and/or for personal injury or death claimed to have been caused on or about the Premises as a result of the use of the Premises by Lessee, or alleged to have been caused by reason of any negligence in the care and maintenance of the Premises, with the limits no less than \$1,000,000 as to the claim of any one person and not less than \$2,000,000 as to the claims of

more than one person arising out of any one incident or occurrence. Said liability insurance policy shall be issued in the name of Lessee and the Lessor shall be named as an additional insured, and said insurance shall be paid for by Lessee, and Lessee shall provide proof of such insurance to Lessor upon demand.

- E. Lessee shall not permit any mechanic's liens to be placed against the Premises, and if any such mechanic's lien is placed against the Premises Lessee shall within 20 days cause the same to be removed or in good faith contest the same and diligently proceed and continue to proceed to do so.

9. **Subletting and Assignment:** Lessee covenants and agrees that Lessee shall not allow the Premises to be occupied in whole or part by any other person, and shall not sublet the same nor any part thereof, nor assign this lease, without first obtaining the written consent of Lessor which such consent shall not unreasonably be withheld.

10. **Termination of Lease:** Lessor agrees that Lessee shall have the right to terminate this lease if the Premises become unusable for marine commercial purposes as a result of the environmental condition of the Premises.

11. **Abandonment:** If Lessee shall vacate or abandon the Premises or permit the same to be vacant or unoccupied for a period of 60 days, or if Lessee shall be declared insolvent or bankrupt by any court, then Lessee's right to possession of the Premises shall terminate upon 10 days written notice from Lessor to Lessee.

12. **Real Estate Taxes:** Lessor shall be responsible for the payment of any real estate taxes, if any, which may be imposed on the Premises at any time during the term of this lease and shall promptly pay any such taxes before they become due and delinquent.

13. **Landlord Remedies:** If Lessee fails to pay the rent when due and continues to be in default for failure to pay rent after thirty (30) days written notice from Lessor, or if Lessee fails to perform any other obligation under this Lease after thirty (30) days written notice from Lessor, then Lessor may declare the Lease null and void or seek a court order under *Larsen Marine Services, Inc. v. City of Waukegan*, 02 MR 1333, to require compliance with the terms of this lease. If any default shall occur which in due diligence cannot be cured within (30) days, and Lessee begins to take the necessary actions within the thirty (30) day period, then Lessee shall not be in default and shall be given a reasonable time to cure that default. These remedies are in addition to all other remedies Lessee may have in law or equity.

14. **Tenant Remedies:** Lessor acknowledges that Lessee is relying on all of the covenants, warranties, representations and agreements in this Lease and all such matters

so represented are material. Lessor accordingly agrees to take all necessary actions to correct any default in the terms of this Lease within thirty (30) days after written notice from Lessee. If Lessor fails to cure such default within thirty (30) days, then Lessee may seek a court order under *Larsen Marine Services, Inc. v. City of Waukegan*, 02 MR 1333, to require compliance with the terms of this lease, or at its option, may cure Lessor's default and Lessee shall be responsible for the payment of any fees and costs incurred by Lessee to cure said default. These remedies are in addition to all other remedies Lessee may have in law or equity.

15. **Attorneys' Fees:** If Lessee is required to file a petition to enforce the terms of this lease under *Larsen Marine Services, Inc. v. City of Waukegan*, 02 MR 1333, or files any other action to enforce the terms of this lease, and if Lessee prevails in any such action, then Lessee shall be entitled to an award of all reasonable attorneys' fees and costs incurred by Lessee in that action. If Lessor is required to file a petition to enforce the terms of this lease under *Larsen Marine Services, Inc. v. City of Waukegan*, 02 MR 1333, or files any other action to enforce the terms of this lease, and if Lessor prevails in any such action, then Lessor shall be entitled to an award of all reasonable attorneys' fees and costs incurred by Lessor in that action.

16. **Rezoning:** If Slip#3 is not ready for marine commercial purposes by Larsen, as defined in the Final Settlement Stipulation in the matter of *Larsen Marine Services, Inc. v. City of Waukegan*, General No. 02 MR 1333 in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois, within three years from December 20, 2005, or any extension thereof, then this lease shall continue for a period of ninety-nine years. In that event, the Lessor agrees to promptly process a petition and all other related documents so that the Premises can be approved for rezoning to the MCR classification or other applicable zoning classification to allow Lessee to use, operate, and maintain the Premises for marine commercial purposes. These approvals include but are not limited to map amendments, text amendments, special use, and variations which may be required.

In order to obtain the zoning and other approvals referenced in this paragraph, Lessee has agreed to submit all of the required applications, documents and fees required by Lessor. Lessee understands and agrees that these applications and documents will be subject to further review and approval by Lessor. Nothing contained in this lease shall obligate Lessor to approve any requests of Lessee which are not in compliance with all of the ordinances of Lessor. Lessee acknowledges and agrees that the request for zoning and other approvals is subject to the review process mandated by Illinois State law and Lessor ordinances and regulations.

17. **Option to Include Additional Property:** In the event that this Lease is converted into a 99 year lease as provided for herein; then at such time as the adjacent Triax property, which is shown on Exhibit C and legally described on Exhibit D, is no longer used or needed as a groundwater treatment facility, Waukegan agrees to lease the Triax property to Larsen as additional leased premises under this Lease. It is anticipated that this

parcel will be ready for use by Lessee within seven years of the date of this agreement. Once Lessor no longer needs the Triax parcel for use with as a ground water treatment facility, Lessor shall give written notice to Lessee that this parcel is available for use by Lessee. Lessee shall have 30 days from receipt of this notice to exercise this option and add the Triax Property to his lease. Once Lessor exercises this option, then the Triax Property shall thereafter be deemed to be included in the definition of Premises in this lease and the provisions of this lease shall apply to the Triax Property.

18. **Relocation of Utility Lines:** Lessor agrees to relocate or remove the overhead utility lines between the Premises and the existing Larsen Property directly across Seahorse Drive to the south so as to allow movement of sail boats with masts up from Larsen's current property across to the Premises if and when this lease is converted to a ninety-nine (99) year lease.

19. **Miscellaneous Provisions:**

A. **Successors and Assigns:** The terms, agreements, covenants, and warranties shall be binding on and shall inure to the benefit Lessor and Lessee, and their respective heirs, personal representatives, executors, administrators, successors, and assign, and shall run with the land.

B. **Writing:** No waivers, alterations, modifications, or amendments of this Lease or any written agreements in connection with this lease shall be valid unless agreed to in writing by the parties.

C. **Notice:** All notices or demands required hereunder or which any of the parties deem desirable to make, serve, or give shall be in writing, signed by the party or its attorney, sent by certified mail, return receipt requested, postage prepaid, or by overnight mail with written delivery confirmation, and

(a) if intended for Lessor shall be sent to:

(b) if intended for Lessee shall be sent to:

D. **Authority to Sign:** Any person signing this lease represents and warrants that he or she has full authority to do so and that its execution has been duly authorized.

E. Construction: This lease shall be construed and interpreted in accordance with the laws of the State of Illinois and in accordance with the Final Settlement Stipulation in *Larsen Marine Services, Inc. v. City of Waukegan*, 02 MR 1333. If any provision of this lease shall be declared to be invalid or unenforceable by any court of competent jurisdiction, such provision shall be deemed severable, and such invalidity or unenforceability shall not affect any other provisions of this Lease.

IN WITNESS WHEREOF the parties have executed this Lease the day and year first written above.

Lessor: City of Waukegan

Lessee: Larsen Marine Services, Inc.

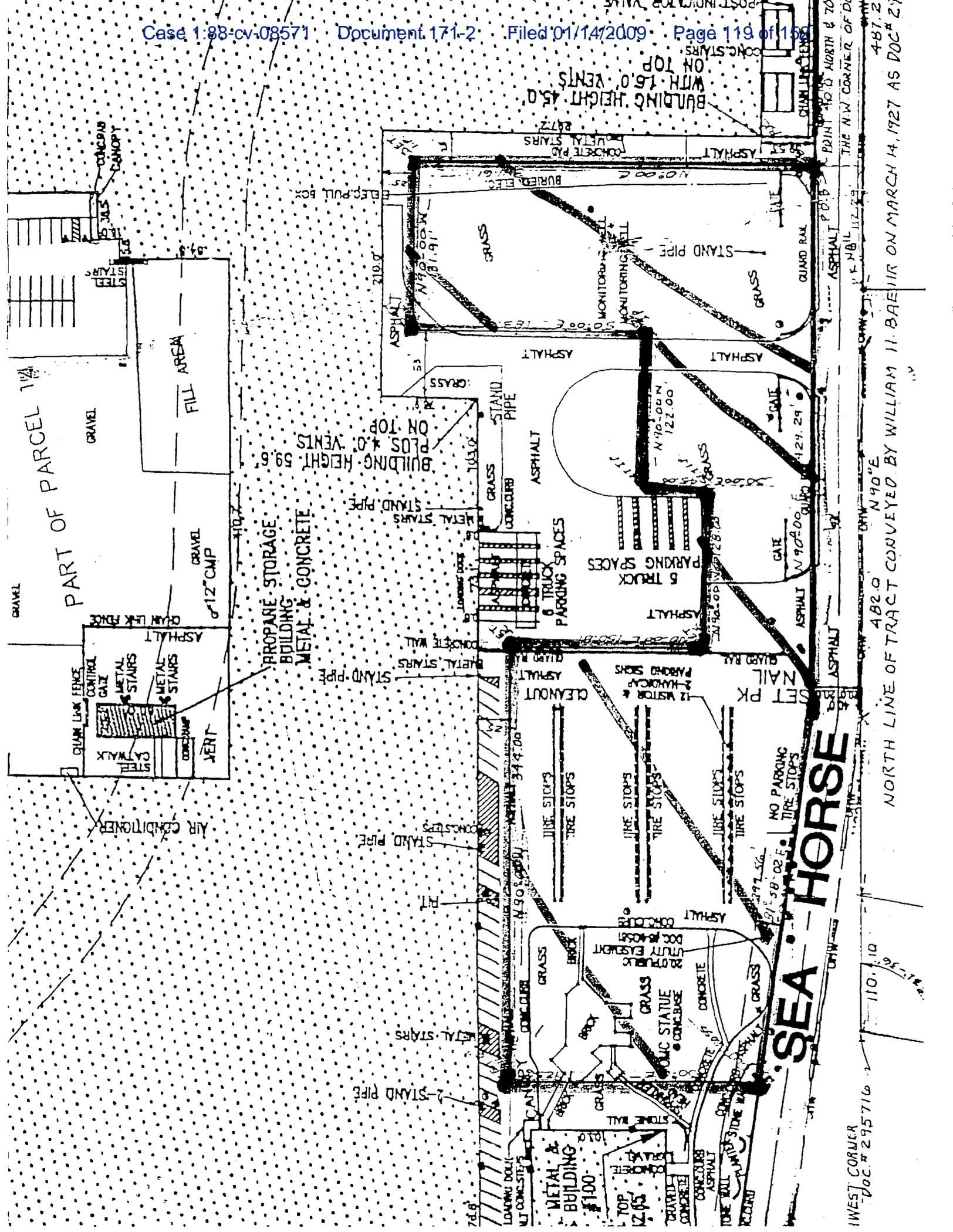
By: _____
Mayor Hyde

By: _____
President

Attest: _____
City Clerk

EXHIBIT A

to case



PART OF PARCEL 1/4

FILL AREA

PROPANE STORAGE BUILDING METAL & CONCRETE

BUILDING HEIGHT 59.6 PLOS * 0. VENTS ON TOP

BUILDING HEIGHT 45.0 WITH 15.0 VENTS ON TOP

5 TRUCK PARKING SPACES

6 TRUCK PARKING SPACES

SEA HORSE

NORTH LINE OF TRACT CONVEYED BY WILLIAM H. BAEHR ON MARCH 14, 1927 AS DOC # 295710

WEST CORNER Doc. # 295710

487.2

482.0

482.0

482.0

482.0

482.0

482.0

482.0

482.0

482.0

482.0

482.0

EXHIBIT B

to Case

THAT PART OF THE NORTH 1/2 OF SECTION 22, TOWNSHIP 45 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN BOUNDED BY A LINE DESCRIBED AS FOLLOWS TO-WIT: COMMENCING AT THE NORTHWEST CORNER OF DOCUMENT #295716, BEING A PARCELL CONVEYED BY WILLIAM H. BAHR ON MARCH 14, 1927 AS DOCUMENT #295716, THENCE NORTH 90°-00' EAST, ALONG THE NORTH LINE OF SAID DOCUMENT #295716 A DISTANCE OF 704.39 FEET; THENCE NORTH 0°-00' EAST, A DISTANCE OF 40.0 FEET, TO THE POINT OF BEGINNING OF THE PARCEL BEING DESCRIBED; SAID POINT OF BEGINNING BEING ON THE NORTHERLY RIGHT OF WAY LINE OF SEAHORSE DRIVE; THENCE NORTH 0°-00' EAST, A DISTANCE OF 311.61 FEET; THENCE NORTH 90°-00' WEST, A DISTANCE OF 131.91 FEET; THENCE SOUTH 0°-00' EAST, A DISTANCE OF 183.00 FEET; THENCE NORTH 90°-00' WEST, A DISTANCE OF 122.00 FEET; THENCE SOUTH 0°-00' EAST, A DISTANCE OF 45.00 FEET; THENCE NORTH 90°-00' WEST, A DISTANCE OF 128.00 FEET; THENCE NORTH 0°-00' EAST, A DISTANCE OF 150.81 FEET; THENCE NORTH 90°-00' WEST, A DISTANCE OF 344.00 FEET; THENCE SOUTH 0°-00' EAST, A DISTANCE OF 192.56 FEET, TO THE NORTHERLY RIGHT OF WAY LINE OF SEAHORSE DRIVE; THENCE SOUTH 81°-58'-02" EAST, ALONG THE NORTHERLY RIGHT OF WAY LINE OF SEAHORSE DRIVE, A DISTANCE OF 299.56 FEET; THENCE NORTH 90°-00' EAST, ALONG THE NORTHERLY RIGHT OF WAY LINE OF SEAHORSE DRIVE, A DISTANCE OF 429.29 FEET, TO THE POINT OF BEGINNING. ALL IN THE CITY OF WAUKEGAN, LAKE COUNTY, ILL. PARCEL CONTAINS 3.2582 ACRES.

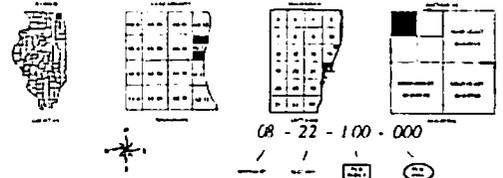
EXHIBIT O

EXHIBIT P

THAT PART OF THE NORTH 1/2 OF SECTION 22, TOWNSHIP 45 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN BOUNDED BY A LINE DESCRIBED AS FOLLOWS TO-WIT: COMMENCING AT THE NORTHWEST CORNER OF DOCUMENT #295716, BEING A PARCEL CONVEYED BY WILLIAM H. BAEHR ON MARCH 14, 1927 AS DOCUMENT #295716, THENCE NORTH 90°-00' EAST, ALONG THE NORTH LINE OF SAID DOCUMENT #295716 A DISTANCE OF 704.39 FEET; THENCE NORTH 0°-00' EAST, A DISTANCE OF 40.0 FEET; THENCE NORTH 0°-00' EAST, A DISTANCE OF 311.61 FEET; THENCE NORTH 90°-00' WEST, A DISTANCE OF 131.91 FEET TO THE PLACE OF BEGINNING OF THE PARCEL BEING DESCRIBED; THENCE SOUTH 0°-00' EAST, A DISTANCE OF 183.00 FEET; THENCE NORTH 90°-00' WEST, A DISTANCE OF 122.00 FEET; THENCE SOUTH 0°-00' EAST, A DISTANCE OF 45.00 FEET; THENCE NORTH 90°-00' WEST, A DISTANCE OF 128.00 FEET; THENCE NORTH 0°-00' EAST, A DISTANCE OF 150.81 FEET; THE NORTH 90°-00' EAST, A DISTANCE OF 222.00 FEET; THENCE NORTH 0°-00' EAST, A DISTANCE OF 77.19 FEET; THENCE NORTH 90°-00' EAST, A DISTANCE OF 28.0 FEET TO THE PLACE OF BEGINNING. ALL IN THE CITY OF WAUKEGAN, LAKE COUNTY, ILL. PARCEL CONTAINS 0.7891 ACRES.

EXHIBIT Q

THE AREA SHOWN IS THE
 NORTHWEST 1/4 OF THE NORTHWEST 1/4
 OF SECTION 22
 TOWNSHIP 45 NORTH, RANGE 12 EAST



TAX CODES

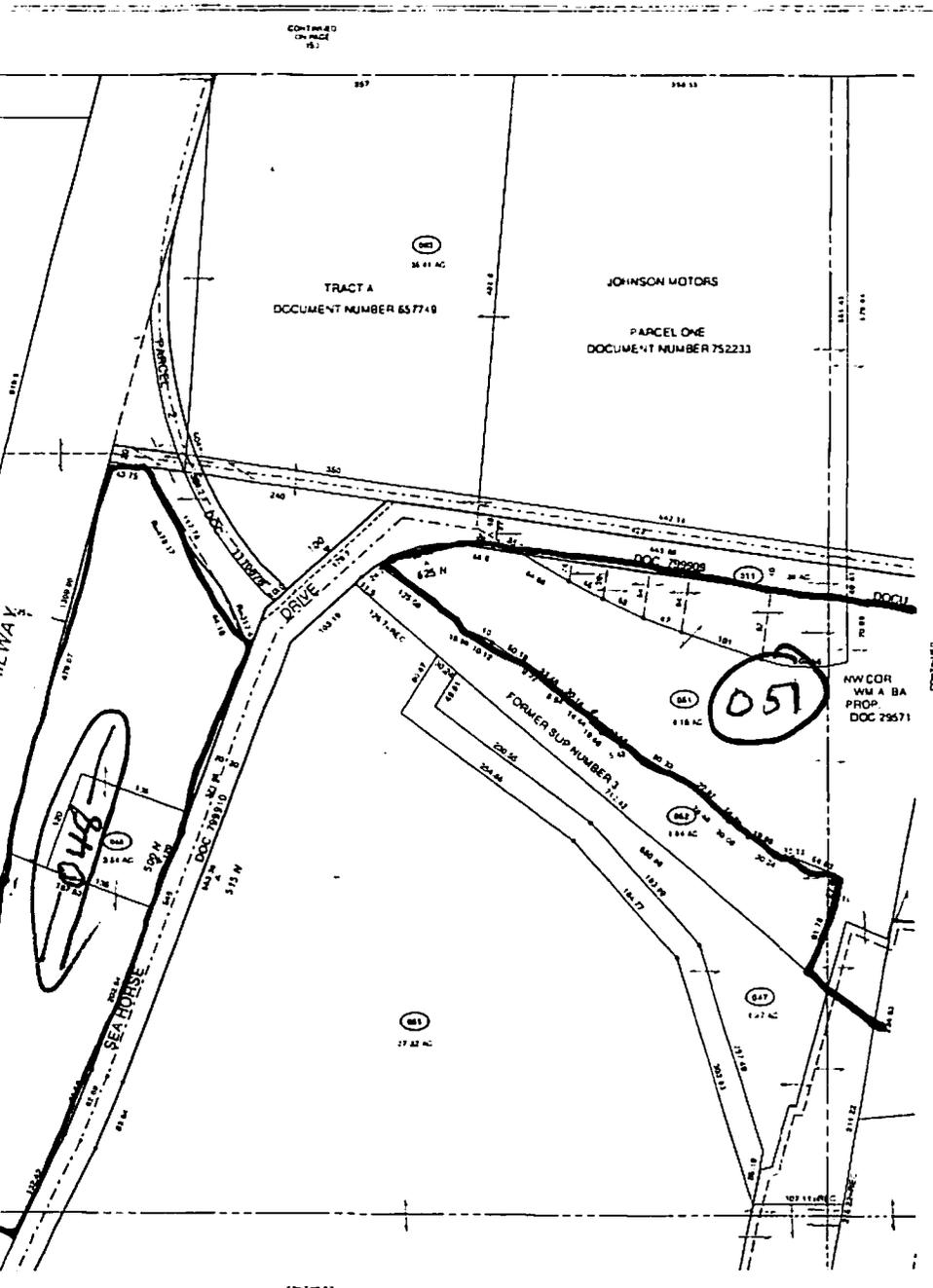
TAX CODE 8-12
 UNIT SCHOOL DISTRICT 66
 JANDA COLLEGE DISTRICT 833
 NORTH SHORE SANITARY DISTRICT
 WAUKEGAN FIRE DISTRICT
 CITY OF WAUKEGAN

TAX CODE 8-45
 UNIT SCHOOL DISTRICT 66
 JANDA COLLEGE DISTRICT 833
 NORTH SHORE SANITARY DISTRICT
 WAUKEGAN FIRE DISTRICT
 CITY OF WAUKEGAN
 WAUKEGAN 1A B REPLACEMENT AREA 4

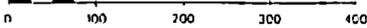
SUBDIVISION AND CONDOMINIUM
 LOCATION INDEX

MAP REPRESENTATION

SECTION LINE	-----	SUBDIVISION	-----
QUARTER SECTION LINE	-----	LOT LINE	-----
QUARTER QUARTER LINE	-----	ROAD CENTERLINE	-----
QUARTER QUARTER QUARTER LINE	-----	ROAD RIGHT OF WAY	-----
PARCEL BOUNDARY	-----	PRIVATE PROPERTY ROAD	-----
SHORTLINE	-----	IMPROVED AND UNIMPROVED	-----
CENTRAL LINE OF RIVER OR STREAM	-----	RAILROAD TRACE	-----
		TAX CODE	-----



SCALE 1" = 100'



PREPARED BY LAKE COUNTY GRAPING DIVISION
 REVISED 18 NORTH COUNTY STREET
 WAUKEGAN, ILLINOIS 60085
 2002
 (815) 377-2373

EXHIBIT F

Slip 3 Lease between City and Larsen

LEASE (Slip #3)

This Lease (Slip #3) is made and entered into this ___ day of _____, 2008, by and between the City of Waukegan, an Illinois municipal corporation (hereinafter referred to as "Lessor") and Larsen Marine Service, Inc., an Illinois corporation (hereinafter referred to as "Lessee") (the "Lease").

WHEREAS, Lessor and Lessee have entered into a Final Settlement Stipulation in the matter of *Larsen Marine Service, Inc. v. City of Waukegan*, General No. 02 MR 1333 in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois; and

WHEREAS, that Settlement Stipulation contemplates that Lessor will enter into a lease with Lessee for the property referred to as "Slip 3" in the Final Settlement Stipulation, as shown on Exhibit A and legally described on Exhibit B attached hereto and made a part hereof (hereinafter referred to as "Premises"); and

NOW THEREFORE, for and in consideration of the terms and conditions of the Final Settlement Stipulation, and furthermore in consideration of the following covenants and agreements, the sufficiency of which is hereby acknowledged, the parties agree upon the following terms and conditions for this lease:

1. **Term**: The term of this Lease shall be for a period of ninety-nine (99) years, as defined in the Final Settlement Stipulation in the matter of *Larsen Marine Service, Inc. v. City of Waukegan*, General No. 02 MR 1333 in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois.

2. **Purpose**: Lessor hereby agrees to lease to Lessee the Premises and real estate as shown on Exhibit A and legally described on Exhibit B for marine commercial purposes as defined in the Final Settlement Stipulation in the matter of *Larsen Marine Service, Inc. v. City of Waukegan*, General No. 02 MR 1333 in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois.

3. **Rent**: The rent for the Premises shall be Ten and 00/100 (\$10.00) Dollars per year, payable no later than the Fifth day of January of each year.

4. **Utilities**: Lessor shall have no responsibility to provide water, electricity, gas, power, heat, air conditioning, or any other utility service to the Premises, but Lessee shall have the right and sole responsibility to provide such utilities.

5. **Use and Maintenance of Premises**:

A. **Use**. Lessee covenants and agrees that the Premises shall be used for marine commercial purposes, including but not limited to the right but not the obligation to construct and maintain buildings, underground utilities, overhead utilities, parking areas, access areas, fencing, boat storage areas, ramps, and areas for the launching of boats. Lessee further covenants and agrees not to permit or suffer any waste, misuse or neglect of in or upon the Premises or any part thereof. Lessee shall comply with all applicable laws, including consent decrees, including, but not limited to, the Supplemental Consent Decree entered into the case of: *United States of America and People of the State of Illinois, Plaintiffs v. OMC, Defendant, and The City of Waukegan, Illinois, Defendant-Intervenor*, No. 88 C 8571 on June 23, 2005, affecting the Premises ("Supplemental Consent Decree").

- B. Signage. Lessee shall have the right to erect reasonable signage in compliance with all local applicable laws affecting the Premises.
- C. Termination of Lease. Upon termination of this Lease, Lessee shall have the right but not the duty to remove any buildings, fixtures, improvements, or fencing which may have been placed on the Premises. Any and all such improvements or fixtures which may be made or installed by Lessee upon the Premises, and which shall not be removed at the termination of this Lease, shall thereafter become the property of the Lessor.
- D. Preparation of Premises. Lessor shall be required to prepare the Premises for use by Lessee for marine commercial purposes, as required in the Final Settlement Stipulation, attached hereto as Exhibit C (without Exhibits), in the matter of *Larsen Marine Service, Inc. v. City of Waukegan*, General No. 02 MR 1333 in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois.
- E. Maintenance of Condition of Premises. Lessee covenants and agrees to keep the Premises in good repair and in a clean condition at Lessee's own expense. Lessee shall be responsible for any and all repairs in and upon said Premises for improvements constructed by Lessee. Lessor shall be solely responsible for any repairs required to comply with the requirements of the United States Environmental Protection Agency as well as any other repairs or remediation work required because of the three containment cells or any other known or unknown environmental condition of the Premises, except for environmental conditions occurring after the date Lessee takes possession of the Premises and are caused by Lessee's use of the Premises. Lessee further covenants and agrees that any improvements to the Premises by Lessee shall comply with all applicable laws and ordinances in accordance with the terms of the Final Settlement Stipulation in the matter of *Larsen Marine Service, Inc. v. City of Waukegan*, General No. 02 MR 1333 and all applicable requirements of the Supplemental Consent Decree.

6. **Lessor's Warranties and Covenants:** Lessor covenants, represents and warrants as follows:

- A. Possession. The Premises are free and clear of all tenancies, whether oral or written and that Lessee shall have the sole, exclusive and actual possession of the Premises from the date of this Lease until termination of this lease.
- B. Covenant of Title. Lessor has good title to the Premises and the Premises are free and clear of all liens, encumbrances, easements, tenancies, or restrictions, other than those shown on the Title Commitment of Chicago Title Insurance Company, No. 1409 - 000745371 - NSC, dated November 26, 2008. Lessor will defend the title and will indemnify Lessee against any damage and expense which Lessee may suffer by reason of any claim against title or defect in the title or description of the Premises.
- C. Use for Marine Purposes. The Premises are known to be environmentally contaminated and constitute a portion a site listed by the United States Environmental Protection Agency (USEPA) on the CERCLA National Priorities List (NPL) and designated the Outboard Marine Corp. NPL Site (EPA ID:

ILD000802827)(“Outboard Marine Corp. NPL Site”). The Outboard Marine Corp. NPL Site has been and will remain the subject of response actions, including, but not limited to, (1) the construction, operation and maintenance of containment cells for PCBs and other response actions with respect to Operable Units Numbers 1 and 3 described in a Consent Decree in the case of *United States of America and State of Illinois v. Outboard Marine Corporation*, No. 88 cv 8571 , entered by the United States District Court for the Northern District of Illinois in 1988 (“1988 Consent Decree”), (2) operation and maintenance of containment cells for PCBs (Operable Unit Number 3) as provided in the Supplemental Consent Decree, and (3) such other Records of Decision USEPA has issued, or may issue, in connection with Operable Units comprising portions of the Outboard Marine Corp. NPL Site. The Supplemental Consent Decree and 1988 Consent Decree are referred to in this Lease collectively as the “Consent Decrees”. Lessor covenants and warrants to the best of its information and belief that the use of the Premises by Lessee for marine commercial purposes as defined in the Final Settlement Stipulation is not in violation of the Consent Decrees or any other agreements with the United States Environmental Protection Agency and that any notices or action required by the Consent Decrees and such other agreements resulting from the Lease of the Premises has been accomplished by Lessor. Lessor further covenants and warrants that all necessary legal, regulatory, title, construction, and all other required permits have been obtained for the work done by Lessor to prepare the Premises for use by Lessee and to allow the Premises to be used by Lessee for marine commercial purposes as defined in the Final Settlement Stipulation. Lessor further covenants and warrants that it will be solely responsible for the environmental condition of the Premises, except for environmental conditions occurring after the date Lessee takes possession of the Premises that are caused by Lessee's use of the Premises. This warranty shall survive the termination of this Lease.

7. **Lessee's Covenants:** Lessee covenants, warrants and agrees as follows:
- A. **Rent.** To pay the rent on the days and in the manner provided in this Lease.
 - B. **Repairs.** To keep the Premises in a safe and good condition and repair, subject to ordinary wear and tear.
 - C. **Compliance with Law.** To comply with all governmental laws, rules and regulations applicable to the marine commercial use of the Premises.
 - D. **Supplemental Consent Decree.** To consent to and comply with any and all requirements applicable to grantees, assignees and transferees of property at the Outboard Marine Corp. NPL Site under the terms of the Supplement Consent Decree and subject to the Joint Notice of Second Non-Material Modification of the Supplemental Consent Decree attached hereto as Exhibit D.
 - E. **Contamination.** Not to take any action or allow any use of the Premises which would cause additional environmental contamination of the Premises.
 - F. **Cooperation with Lessor.** During the term of this Lease, Lessor may undertake to clear certain of the liens, encumbrances, easements, tenancies and restrictions that are shown on the Chicago Title Insurance Company Title Commitment No. 1409 -

000745371 - NSC. All of this work shall be performed by Lessor at no expense or cost to Lessee. Lessee shall cooperate with Lessor, upon Lessor's reasonable request, securing the release of any of the foregoing listed exceptions to title.

- G. United States and the State of Illinois. To permit access to Premises at all reasonable times in accordance with the requirements of Paragraphs 9 and 18 of the Supplemental Consent Decree. Lessee agrees to comply with the land and groundwater use restrictions and institutional controls applicable to the Premises as currently set forth in the Supplemental Consent Decree and any Declaration of Environmental Easement and Restrictive Covenants, and as may be modified by the U.S. EPA and Illinois EPA.

8. **Indemnity and Insurance:**

- A. Lessor covenants and agrees that it will protect and save and keep Lessee forever harmless and fully indemnified against and from any and all claims, loss, costs, expense, penalty, damage or charges which result from the existing environmental condition of the Premises, including but not limited to those conditions which caused the United States Environmental Protection Agency to designate the Premises as the Outboard Marine Corp. NPL Site, and including but not limited to the current condition of the Premises as a containment site for PCBs, and Lessor will at all times protect, indemnify, save and keep the Lessee harmless against and from any and all claims, loss, costs, claims of personal injury or property damage, any other damage, or expense arising out of the environmental condition of the Premises, including but not limited to those conditions which caused the United States Environmental Protection Agency to designate the Premises as the Outboard Marine Corp. NPL Site, and including but not limited to the current condition of the Premises as a containment site for PCBs, except for environmental conditions caused by Lessee's use of the Premises. This warranty shall survive the termination of this Lease.
- B. Lessor covenants and agrees that it shall be solely responsible for any and all environmental remediation, repairs, work, or any other actions which may need to be taken in the future as a result of the environmental contamination or condition of the Premises, including but not limited to those environmental conditions which caused United States Environmental Protection Agency to designate the Premises as the Outboard Marine Corp. NPL Site, and including but not limited to the current condition of the Premises as a containment site for PCBs, and will save and keep the Lessee forever harmless and fully indemnified against and from any loss, cost, expense, penalty, damage or charges imposed for any environmental condition, cleanup, or remediation, except for environmental conditions caused by Lessee's use of the Premises. This warranty shall survive the termination of this Lease.
- C. Lessee covenants and agrees that it will protect and save and keep Lessor forever harmless and indemnified against and from any loss, cost, expense, penalty, damage or charges imposed occasioned by the neglect of Lessee or Lessee's employees, agents, customers and invitees, and that Lessee will at all times protect, indemnify and save and keep harmless the Lessor against and from any and all loss, cost, damage or expense arising out of or from any accident or other

occurrence on or about the said Premises causing injury to any person or property as a result of the use of the Premises by Lessee or Lessee's employees, agents, customers or invitees.

- D. Lessee further covenants and agrees that at all times during this Lease it will secure and maintain insurance in a good and responsible insurance company satisfactory to Lessor, insuring said Lessor against claims for damages to property and/or for personal injury or death claimed to have been caused on or about the Premises as a result of the use of the Premises by Lessee, or alleged to have been caused by reason of any negligence in the care and maintenance of the Premises, with the limits no less than \$1,000,000 as to the claim of any one person and not less than \$2,000,000 as to the claims of more than one person arising out of any one incident or occurrence. Said liability insurance policy shall be issued in the name of Lessee and the Lessor shall be named as an additional insured, and said insurance shall be paid for by Lessee, and Lessee shall provide proof of such insurance to Lessor upon demand. Ten years after execution of this Lease, and every ten years thereafter during the Term of this Lease, the insurance limits set forth herein shall be adjusted by the percentage of cumulative increase during the previous ten years in the CPI. As used herein "CPI" refers to the Revised Consumer Price Index for All Urban Communities published from time to time by the United States Department of Labor Statistics. If the revised CPI shall cease to be published, Lessor and Lessee shall designate a comparable index which shall then be used for determining the rate of increase in insurance limits.
- E. Lessee shall not permit any mechanic's liens to be placed against the Premises, and if any such mechanic's lien is placed against the Premises Lessee shall within 20 days cause the same to be removed or in good faith contest the same and diligently proceed and continue to proceed to do so.

9. **Subletting and Assignment:** Lessee covenants and agrees that Lessee shall not allow the Premises to be occupied in whole or part by any other person, and shall not sublet the same nor any part thereof, nor assign this Lease, without first obtaining the written consent of Lessor which such consent shall not unreasonably be withheld.

10. **Conveyance or Transfer:** Any future transfer of the Property, as that term is defined in Paragraph 4 of the Supplemental Consent Decree, shall include the Premises (Slip 3), and any future purchaser of the Property shall be bound by all requirements of the Operations and Maintenance ("O&M") Plan, as defined in the Supplemental Consent Decree, including, but not limited to, compliance monitoring and corrective action program requirements for the entire Property as provided in Paragraph 51 of the Supplemental Consent Decree.

11. **Termination of Lease:** Lessor agrees that Lessee shall have the right to terminate this Lease if the Premises become unusable for marine commercial purposes as a result of the environmental condition of the Premises.

12. **Abandonment:** If Lessee shall vacate or abandon the Premises or permit the same to be vacant or unoccupied for a period of 60 days, or if Lessee shall be declared insolvent or bankrupt by any court, then Lessee's right to possession of the Premises shall terminate upon 10 days written notice from Lessor to Lessee.

13. **Real Estate Taxes:** Lessor shall be responsible for the payment of any real estate taxes, if any, which may be imposed on the Premises at any time during the term of this lease and shall promptly pay any such taxes before they become due and delinquent.

14. **Lessor Remedies:** If Lessee fails to pay the rent when due and continues to be in default for failure to pay rent after 30 days written notice from Lessor, or if Lessee fails to perform any other obligation under this Lease after 30 days written notice from Lessor, then Lessor may declare the Lease null and void or seek a court order under *Larsen Marine Service, Inc. v. City of Waukegan*, General No. 02 MR 1333, to require compliance with the terms of this lease. If any default shall occur which in due diligence cannot be cured within 30 days, and Lessee begins to take the necessary actions within the 30 day period, then Lessee shall not be in default and shall be given a reasonable time to cure that default. These remedies are in addition to all other remedies Lessee may have in law or equity.

15. **Lessee Remedies:** Lessor acknowledges that Lessee is relying on all of the covenants, warranties, representations and agreements in this Lease and all such matters so represented are material. Lessor accordingly agrees to take all necessary actions to correct any default in the terms of this Lease within 30 days after written notice from Lessee. If Lessor fails to cure such default within 30 days, then Lessee may seek a court order under *Larsen Marine Service, Inc. v. City of Waukegan*, General No. 02 MR 1333, to require compliance with the terms of this Lease, or at its option, may cure Lessor's default and Lessee shall be responsible for the payment of any fees and costs incurred by Lessee to cure said default. These remedies are in addition to all other remedies Lessee may have in law or equity.

16. **Attorneys' Fees:** If Lessee is required to file a petition to enforce the terms of this Lease under *Larsen Marine Service, Inc. v. City of Waukegan*, General No. 02 MR 1333, or files any other action to enforce the terms of this lease, and if Lessee prevails in any such action, then Lessee shall be entitled to an award of all reasonable attorneys' fees and costs incurred by Lessee in that action. If Lessor is required to file a petition to enforce the terms of this lease under *Larsen Marine Services, Inc. v. City of Waukegan*, General No. 02 MR 1333, or files any other action to enforce the terms of this Lease, and if Lessor prevails in any such action, then Lessor shall be entitled to an award of all reasonable attorneys' fees and costs incurred by Lessor in that action.

17. **Rezoning:** Lessor agrees to promptly process a petition and all other related documents so that the Premises can be approved for rezoning to the MCR classification or other applicable zoning classification to allow Lessee to use, operate, and maintain the Premises for marine commercial purposes. These approvals include but are not limited to map amendments, text amendments, special use, and variations which may be required.

In order to obtain the zoning and other approvals referenced in this paragraph, Lessee has agreed to submit all of the required applications, documents and fees required by Lessor. Lessee understands and agrees that these applications and documents will be subject to further review and approval by Lessor. Nothing contained in this lease shall obligate Lessor to approve any requests of Lessee which are not in compliance with all of the ordinances of Lessor. Lessee acknowledges and agrees that the request for zoning and other approvals is subject to the review process mandated by Illinois State law and Lessor ordinances and regulations.

18. **Miscellaneous Provisions:**

- A. **Successors and Assigns.** The terms, agreements, covenants, and warranties of this Lease shall be binding on and shall inure to the benefit of Lessor and Lessee, and

their respective heirs, personal representatives, executors, administrators, successors, and assigns, and shall run with the land.

- B. Writing. No waivers, alterations, modifications, or amendments of this Lease or any written agreements in connection with this Lease shall be valid unless agreed to in writing by the parties.
- C. Notice. All notices or demands required hereunder or which any of the parties deem desirable to make, serve, or give shall be in writing, signed by the party or its attorney, sent by certified mail, return receipt requested, postage prepaid, or by overnight mail with written delivery confirmation, and

- (i) if intended for Lessor shall be sent to:

Mayor's Office
City of Waukegan
106 N. Utica Street
Waukegan, Illinois 60085

-and-

Diver, Grach, Quade & Masini
Attention: Robert Masini
111 N. County Street
Waukegan, Illinois 60085

-and-

Jeep & Blazer, LLC
Attention: Jeffery D. Jeep
24 N. Hillside Avenue
Hillside, Illinois 60182

- (ii) if intended for Lessee shall be sent to:

Larsen Marine Service, Inc.
Attention: Gerald N. Larsen, President
625 Sea Horse Drive
Waukegan, Illinois 60085

-and-

Holland & Knight LLP
Attention: Mark Steger
131 S. Dearborn Street, 30th Floor
Chicago, Illinois 60603

- D. Authority to Sign. Any person signing this Lease represents and warrants that he or she has full authority to do so and that its execution has been duly authorized.
- E. Construction. This Lease shall be construed and interpreted in accordance with the laws of the State of Illinois and in accordance with the Final Settlement Stipulation in *Larsen Marine Service, Inc. v. City of Waukegan*, General No. 02 MR 1333. If any provision of this Lease shall be declared to be invalid or unenforceable by any court of competent jurisdiction, such provision shall be deemed severable, and such invalidity or unenforceability shall not affect any other provisions of this Lease.
- F. Recording Memorandum of Lease. At the request of either the Lessor or Lessee, the parties shall execute a Memorandum of Lease and record such memorandum at the Office of the Recorder of Deeds for Lake County, Illinois.

IN WITNESS WHEREOF, the parties have executed this Lease the day and year first written above.

LESSOR:

City of Waukegan

By: _____
Mayor Richard H. Hyde

Attest: _____
City Clerk

LESSEE:

Larsen Marine Service, Inc.

By: _____
Gerald N. Larsen, President

**EXHIBIT A
TO
LEASE (SLIP #3)**

**EXHIBIT B
TO
LEASE (SLIP #3)**

LARSEN MARINE SERVICE, INC.**LEGAL DESCRIPTIONS FOR WAUKEGAN'S THREE PARCELS COMPRISING SLIP NO. 3**

(Described as Parcels 2, 3 and 4 in CTT Commitment No. 1409 - 000745371 - NSC, dated November 26, 2008)

PARCEL 2

THAT PART OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 45 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 22; THENCE NORTH, ALONG THE WEST LINE OF SAID SECTION 22, 66 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF A PUBLIC ROADWAY COMMONLY KNOWN AS CITY STREET; THENCE EASTERLY ALONG A LINE FORMING AN INTERIOR ANGLE OF 90 DEGREES 31 MINUTES TO THE LAST DESCRIBED COURSE AND PARALLEL WITH THE EAST AND WEST CENTERLINE OF AFORESAID SECTION 22, 340 FEET TO A POINT ON THE EASTERLY LINE OF A 40 FOOT STRIP OF LAND CONVEYED TO THE CITY OF WAUKEGAN BY THE ELGIN, JOLIET AND EASTERN RAILWAY COMPANY BY DEED OF DEDICATION DATED JUNE 17, 1952; THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID 40 FOOT STRIP OF LAND DEDICATED TO THE CITY OF WAUKEGAN AND PARALLEL WITH THE WEST LINE OF AFORESAID SECTION 22, 424.13 FEET; THENCE NORTHWESTERLY ALONG A LINE 17 DEGREES 58 MINUTES LEFT TO THE LAST DESCRIBED COURSE 322.83 FEET; THENCE NORTHERLY ALONG A LINE 17 DEGREES 47 MINUTES RIGHT TO THE LAST DESCRIBED COURSE 5.23 FEET; THENCE CONTINUING NORTHERLY TANGENT TO THE LAST DESCRIBED COURSE, 155.69 FEET; THENCE NORTHEASTERLY, ALONG A LINE 27 DEGREES 00 MINUTES RIGHT TO THE LAST DESCRIBED COURSE, 466.37 FEET; THENCE CONTINUING NORTHEASTERLY ALONG A LINE 03 DEGREES 56 MINUTES LEFT TO THE LAST DESCRIBED COURSE, 83.84 FEET, THENCE CONTINUING NORTHEASTERLY ALONG A LINE 02 DEGREES 38 MINUTES 23 SECONDS LEFT TO THE LAST DESCRIBED COURSE, 553.38 FEET; THENCE CONTINUING NORTHEASTERLY, ALONG A LINE 27 DEGREES 14 MINUTES 13 SECONDS RIGHT TO THE LAST DESCRIBED COURSE 103.19 FEET; THENCE SOUTHEASTERLY ALONG A LINE 82 DEGREES 23 MINUTES 41 SECONDS RIGHT TO THE LAST DESCRIBED COURSE AND WHICH, FOR THE PURPOSES OF THIS DESCRIPTION SHALL HAVE AN ASSUMED BEARING OF SOUTH 49 DEGREES 41 MINUTES 38 SECONDS EAST, 156.94 FEET, TO THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED, SAID POINT OF BEGINNING BEING A POINT ON THE EAST FACE OF THE STEEL SHEETING LINING THE WESTERLY FACE OF THE WAUKEGAN HARBOR; THENCE CONTINUING SOUTH 49 DEGREES 41 MINUTES 38 SECONDS EAST, ALONG THE LAST DESCRIBED COURSE, 650.98 FEET, MORE OR LESS, TO ITS INTERSECTION WITH A LINE BEARING NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST, HEREINAFTER REFERRED TO AS "COURSE A", THE SOUTHERLY TERMINUS OF "COURSE A" MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST 1/4 IN SECTION 22 AFORESAID; THENCE NORTHEASTERLY MAKING A NORTHEAST ANGLE OF 89 DEGREES 29 MINUTES WITH THE EAST AND WEST QUARTER LINE OF SAID SECTION 22, TO A POINT ON THE NORTH LINE OF CITY STREET, 66 FEET FROM, MEASURED AT RIGHT ANGLES, THE EAST AND WEST QUARTER OF SAID SECTION 22; THENCE EAST WITH AND ALONG THE NORTH LINE OF SAID CITY STREET, PARALLEL WITH THE EAST AND WEST CENTER LINE OF SAID SECTION 22, 585.37 FEET TO A POINT ON THE NORTHWESTERLY LINE OF HARBOR STREET; THENCE NORTHEASTERLY WITH AND ALONG SAID NORTHWESTERLY LINE OF HARBOR STREET AND MAKING A NORTHEASTERLY ANGLE OF 75 DEGREES, 12 MINUTES 10 SECONDS WITH THE LAST DESCRIBED COURSE EXTENDED EAST, 119.43 FEET TO A POINT; THENCE EAST, PARALLEL WITH AND 181.47 FEET; FROM, MEASURED AT RIGHT ANGLES THE SAID CENTER LINE OF SECTION 22, 373.61 FEET TO A POINT; THENCE NORTHEASTERLY MAKING A NORTHEASTERLY ANGLE OF 60 DEGREES 01 MINUTES 15 SECONDS WITH THE LAST DESCRIBED COURSE EXTENDED EAST 417.44 FEET TO A POINT WHICH IS 543.06 FEET NORTH (MEASURED AT RIGHT ANGLES) OF THE EAST AND WEST CENTER LINE OF SECTION 22, AFORESAID, WHICH FOR THE PURPOSE OF REFERENCE IN THIS DESCRIPTION IS HEREINAFTER "REFERRED TO AS AN EAST AND WEST LINE HAVING A BEARING OF NORTH 90 DEGREES EAST OR NORTH 90 DEGREES WEST; CONTINUING THENCE NORTH 29 DEGREES 58 MINUTES 45 SECONDS EAST ALONG THE LAST DESCRIBED LINE EXTENDED NORTHEASTERLY, A DISTANCE OF 16.03 FEET TO THE SOUTHERLY TERMINUS OF SAID "COURSE A" HEREIN BEING DESCRIBED); THENCE SOUTH 10 DEGREES 31 MINUTES 36 SECONDS WEST, ALONG SAID "COURSE A" 211.22 FEET; THENCE

NORTH 90 DEGREES WEST, 107.11 FEET, MORE OR LESS, TO A POINT ON THE EASTERLY FACE OF THE STEEL SHEETING LINING THE WESTERLY FACE OF THE WAUKEGAN HARBOR; THENCE NORTH 10 DEGREES 17 MINUTES 01 SECONDS; EAST ALONG SAID SHEETING, 65.19 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 17 DEGREES 09 MINUTES 09 SECONDS WEST, ALONG SAID SHEETING, 252.49 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 41 DEGREES 35 MINUTES 22 SECONDS WEST, ALONG SAID SHEETING, 193.99 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 53 DEGREES 26 MINUTES 17 SECONDS WEST, ALONG SAID SHEETING, 230.55 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 32 DEGREES 27 MINUTES 22 SECONDS EAST ALONG SAID SHEETING 48.51 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, IN LAKE COUNTY, ILLINOIS.

PARCEL 3

THAT PART OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 45 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 22; THENCE NORTH, ALONG THE WEST LINE OF SAID SECTION 22, 66 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF A PUBLIC ROADWAY COMMONLY KNOWN AS CITY STREET; THENCE EASTERLY, ALONG A LINE FORMING AN INTERIOR ANGLE OF 90 DEGREES 31 MINUTES TO THE LAST DESCRIBED COURSE AND PARALLEL WITH THE EAST AND WEST CENTERLINE OF AFORESAID SECTION 22, 340 FEET TO A POINT ON THE EASTERLY LINE OF A 40 FOOT STRIP OF LAND CONVEYED TO THE CITY OF WAUKEGAN BY THE ELGIN, JOLIET AND EASTERN RAILWAY COMPANY BY DEED OF DEDICATION DATED JUNE 17, 1952; THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID 40 FOOT STRIP OF LAND DEDICATED TO THE CITY OF WAUKEGAN AND PARALLEL WITH THE WEST LINE OF AFORESAID SECTION 22, 424.13 FEET; THENCE NORTHWESTERLY, ALONG A LINE 17 DEGREES 58 MINUTES LEFT TO THE LAST DESCRIBED COURSE 322.83 FEET; THENCE NORTHERLY ALONG A LINE 17 DEGREES 47 MINUTES RIGHT TO THE LAST DESCRIBED COURSE 5.23 FEET; THENCE CONTINUING NORTHERLY TANGENT TO THE LAST DESCRIBED COURSE, 155.69 FEET; THENCE NORTHEASTERLY, ALONG A LINE 27 DEGREES 00 MINUTES RIGHT TO THE LAST DESCRIBED COURSE, 466.37 FEET; THENCE CONTINUING NORTHEASTERLY ALONG A LINE 03 DEGREES 56 MINUTES LEFT TO THE LAST DESCRIBED COURSE, 83.84 FEET; THENCE CONTINUING NORTHEASTERLY ALONG A LINE 02 DEGREES 38 MINUTES 23 SECONDS LEFT TO THE LAST DESCRIBED COURSE, 553.38 FEET; THENCE CONTINUING NORTHEASTERLY, ALONG A LINE 27 DEGREES 14 MINUTES 13 SECONDS RIGHT TO THE LAST DESCRIBED COURSE 103.19 FEET; THENCE SOUTHEASTERLY, ALONG A LINE 82 DEGREES 23 MINUTES 41 SECONDS RIGHT TO THE LAST DESCRIBED COURSE AND WHICH, FOR THE PURPOSES OF THIS DESCRIPTION SHALL HAVE AN ASSUMED BEARING OF SOUTH 49 DEGREES 41 MINUTES 38 SECONDS EAST 126.70 FEET, TO THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE SOUTH 32 DEGREES 27 MINUTES 22 SECONDS WEST, 80.47 FEET; THENCE SOUTH 53 DEGREES 26 MINUTES 17 SECONDS EAST, 254.85 FEET; THENCE SOUTH 41 DEGREES 35 MINUTES 22 SECONDS EAST, 184.77 FEET; THENCE SOUTH 17 DEGREES 09 MINUTES 09 SECONDS EAST, 303.93 FEET TO THE EASTERLY FACE OF THE STEEL SHEETING LINING THE WESTERLY FACE OF THE WAUKEGAN HARBOR; THENCE NORTH 10 DEGREES 17 MINUTES 01 SECONDS EAST, ALONG SAID SHEETING, 65.19 FEET, TO AN ANGLE POINT THEREON; THENCE NORTH 17 DEGREES 09 MINUTES 09 SECONDS WEST ALONG SAID SHEETING, 259.49 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 41 DEGREES 35 MINUTES 22 SECONDS WEST, ALONG SAID SHEETING, 193.99 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 53 DEGREES 26 MINUTES 17 SECONDS WEST, ALONG SAID SHEETING, 230.55 FEET TO AN ANGLE POINT THEREON; THENCE NORTH 32 DEGREES 27 MINUTES 22 SECONDS EAST, ALONG SAID SHEETING, 48.51 FEET; THENCE NORTH 49 DEGREES 41 MINUTES 38 SECONDS WEST, 30.24 FEET TO THE POINT OF BEGINNING, IN LAKE COUNTY, ILLINOIS.

PARCEL 4

THAT PART OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 45 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF A PUBLIC ROADWAY COMMONLY KNOWN AS PERSHING ROAD, SAID POINT BEING THE SOUTHEASTERLY CORNER OF THE PROPERTY DEDICATED BY THE ELGIN, JOLIET AND EASTERN RAILWAY COMPANY TO THE CITY OF WAUKEGAN BY DEED DATED OCTOBER 19, 1953 AND RECORDED AS DOCUMENT NUMBER 809018, BOOK 1214, PAGE 579 THENCE WESTERLY ALONG THE SOUTHERLY RIGHT OF WAY LINE OF SAID PERSHING ROAD, 271.86 FEET TO A POINT; THENCE SOUTHERLY ALONG A LINE FORMING AN INTERIOR ANGLE OF 81 DEGREES 49 MINUTES TO THE LAST DESCRIBED COURSE, 70.99 FEET TO A POINT, THENCE WESTERLY ON A CURVE CONVEX TO THE SOUTH HAVING A RADIUS OF 175 FEET AND BEGINNING TANGENT WHICH FORMS AN ANGLE OF 74 DEGREES 31 MINUTES 40 SECONDS RIGHT TO THE LAST DESCRIBED COURSE EXTENDED AN ARC DISTANCE OF 104.56 FEET TO A POINT 82 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 101 FEET TO A POINT 64 WEST SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 47 FEET TO A POINT 54 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE WESTERLY A DISTANCE OF 53 FEET TO A POINT 39 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 45 FEET TO A POINT 24 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF PERSHING ROAD, MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING WESTERLY A DISTANCE OF 64.86 FEET TO A POINT ON SAID SOUTHERLY LINE OF PERSHING ROAD; THENCE WESTERLY ALONG SAID SOUTHERLY LINE OF PERSHING ROAD, 66.0 FEET, MORE OR LESS, TO A POINT OF CURVE; THENCE CONTINUING WESTERLY ALONG THE SOUTHERLY LINE OF PERSHING ROAD, ON A CURVE CONVEX TO THE NORTHWEST HAVING A RADIUS OF 153.58 FEET, AN ARC DISTANCE OF 108.42 FEET TO A POINT, SAID POINT BEING THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE CONTINUING ALONG SAID CURVE AN ARC DISTANCE OF 24.74 FEET TO A POINT; THENCE SOUTHWESTERLY, TANGENT TO THE END POINT OF THE LAST DESCRIBED COURSE, 11.5 FEET TO A POINT; THENCE SOUTHEASTERLY ALONG A LINE FORMING AN ANGLE OF 82 DEGREES 23 MINUTES 41 SECONDS TO THE RIGHT OF THE LAST DESCRIBED COURSE AND WHICH LINE SHALL HEREINAFTER HAVE A BEARING OF SOUTH 49 DEGREES 41 MINUTES 38 SECONDS EAST FOR PURPOSES OF THIS DESCRIPTION, 712.42 FEET TO A POINT, SAID POINT BEING ON THE EAST EDGE OF STEEL SEAWALL; THENCE NORTH 16 DEGREES 34 MINUTES 23 SECONDS EAST ALONG SAID SEAWALL TO A POINT, SAID POINT BEING THE INTERSECTION OF THE NORTHERLY EDGE OF A 1.1 FOOT WIDE CONCRETE WALL AND THE EASTERLY EDGE OF A 0.5 FOOT CONCRETE WALL AND CONCRETE SLAB, A DISTANCE OF 91.78 FEET; THENCE NORTH 71 DEGREES 38 MINUTES 21 SECONDS WEST ALONG THE NORTHERLY EDGE OF SAID 1.1 FOOT CONCRETE WALL, 1.19 FEET TO A POINT, SAID POINT BEING AN INTERSECTION OF THE NORTHERLY EDGE OF SAID 1.1 FOOT CONCRETE WALL AND THE EASTERLY EDGE OF 0.5 FOOT CONCRETE WALL, SAID 0.5 FOOT CONCRETE WALL HEREINAFTER REFERRED TO AS "CONCRETE WALL"; THENCE NORTH 16 DEGREES 46 MINUTES 11 SECONDS EAST ALONG THE EASTERLY EDGE OF "CONCRETE WALL", 27.64 FEET TO A POINT, SAID POINT BEING THE INTERSECTION OF THE EASTERLY EDGE OF "CONCRETE WALL" AND THE NORTHERLY EDGE OF "CONCRETE WALL"; THENCE NORTH 67 DEGREES 09 MINUTES 29 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 58.83 FEET; THENCE NORTH 84 DEGREES 45 MINUTES 20 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 10.13 FEET; THENCE NORTH 62 DEGREES 48 MINUTES 35 SECONDS WEST ALONG THIS NORTHERLY EDGE OF "CONCRETE WALL", 30.24 FEET; THENCE NORTH 62 DEGREES 02 MINUTES 29 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 19.89 FEET; THENCE NORTH 50 DEGREES 57 MINUTES 10 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 30.08 FEET; THENCE NORTH 37 DEGREES 51 MINUTES 56 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 14.77 FEET; THENCE NORTH 49 DEGREES 39 MINUTES 02 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 24.48 FEET; THENCE NORTH 50 DEGREES 50 MINUTES 45 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 22.87 FEET; THENCE NORTH 57 DEGREES 16 MINUTES 07 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 90.33 FEET; THENCE SOUTH 81 DEGREES 48 MINUTES 16 SECONDS WEST ALONG

THE NORTHERLY EDGE OF "CONCRETE WALL", 5.43 FEET; THENCE NORTH 57 DEGREES 39 MINUTES 24 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 27.68 FEET; THENCE NORTH 47 DEGREES 18 MINUTES 47 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 19.68 FEET; THENCE NORTH 04 DEGREES 26 MINUTES 49 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 5.36 FEET; THENCE NORTH 53 DEGREES 36 MINUTES 16 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 14.44 FEET; THENCE NORTH 44 DEGREES 31 MINUTES 21 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 30.14 FEET; THENCE NORTH 66 DEGREES 05 MINUTES 35 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 6.64 FEET; THENCE NORTH 49 DEGREES 52 MINUTES 29 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 33.48 FEET; THENCE NORTH 52 DEGREES 19 MINUTES 13 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 9.77 FEET; THENCE NORTH 56 DEGREES 55 MINUTES 34 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 50.18 FEET; THENCE NORTH 59 DEGREES 46 MINUTES 31 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 10.12 FEET; THENCE NORTH 65 DEGREES 21 MINUTES 42 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 10.00 FEET; THENCE NORTH 69 DEGREES 17 MINUTES 45 SECONDS WEST ALONG THE NORTHERLY EDGE OF "CONCRETE WALL", 19.98 FEET TO THE WEST END OF THE SAID "CONCRETE WALL"; THENCE NORTH 53 DEGREES 10 MINUTES 45 SECONDS WEST, 125.08 FEET TO THE POINT OF BEGINNING, IN LAKE COUNTY, ILLINOIS.

EXHIBIT G
PRELIMINARY APPROVAL OF DESIGN
BY USEPA, WITH COMMENTS,
DATED AUGUST 6, 2007

From: Adler.Kevin@epamail.epa.gov
[mailto:Adler.Kevin@epamail.epa.gov]
Sent: Monday, August 06, 2007 3:43 PM
To: John Moore
Subject: Comments on the 90% design - Slip 3

John:

Please forward to your designers as appropriate.

Should you like to discuss these, we can make ourselves available at the city hall - perhaps on the 16th of August? We'll (Me, Hill) be in town for the 10 am Coke Plant meeting and later the CAG picnic, so mid-afternoon looks good.

ka.

(See attached file: Comments on 90% design August 2007.doc)

MEMORANDUM

CH2MHILL

**Review of 90% Design – Slip 3 Containment Alteration/Boat Storage Re-Use
OMC Plant 2, Waukegan, Illinois
WA No. 018-RICO-0528, Contract No. EP-S5-06-01**

TO: Kevin Adler/USEPA
COPIES: Jewelle Keiser/CH2M HILL, Milwaukee
FROM: Jim Schneider/CH2M HILL, Denver
DATE: August 6, 2007
PROJECT NUMBER: 348138.PR.01

This memorandum summarizes our review of the “90% Design Submittal” (dated June 2007) drawings for constructing boat storage facilities at the Slip 3 site at Waukegan Harbor, Illinois. We also briefly reviewed the following accompanying documents to understand the project and the site conditions:

- Specification Section 02621, *Geocomposite Drainage Layer*
- Specification Section 02700, *Polyethylene Geomembrane Liner*
- A technical memorandum (TM) entitled *Waukegan Harbor Slip 3 – Field Sampling Results* (dated June 22, 2007)

The following comments address only the aspects of the proposed work as they relate to the containment of the PCB-impacted sediments. The review does not offer any opinion as to the adequacy of the foundation or structural design concepts.

General Comments

1. The basic concepts presented in the drawings appear to be reasonable, assuming that the characterization of the contamination provided in the TM is accurate. We have very few comments on the submittal; most relate to the need to provide details such that the new 60-mil HDPE lining – together with the other structural elements such as the grade beams – will provide a continuous primary containment barrier. Specifically, the drawings provide no detail regarding attachment of the HDPE lining to the various penetrations under the building (e.g., monitoring well, piling, etc.). It is unclear how the HDPE lining will act as a continuous primary containment without such connections.
2. The concept presented in the *Basis of Design Memorandum, Alteration of Slip No. 3 Containment Cell, Outboard Marine Corporation Superfund Site* dated November 20, 2006 discussed roof downspout drains. In a comment on that document, it was asked if the downspout drains would be able to reach the peripheral drainage system with

adequate cover and still not extend into the contaminated sediments. The present drawings do not address roof drainage. How will it be managed to prevent infiltration into the containment cell?

Specific Comments

1. **Sheet 4. Note 11.** This states that the topsoil and sand will be stockpiled at the City of Waukegan property location on Sheet 1. There is no proposed location identified on Sheet 1.
2. **Sheet 8.**
 - a. The area under the building is shaded and noted to be the “60-MIL HDPE LINER.” Presumably the remainder of the area enclosed within the slurry walls and the east sheet pile wall will also be provided with a 60-mil HDPE lining; the details on Sheet 13 imply this. This should be clarified.
 - b. Is there any slope the HDPE liner under the building? Where will drainage from the geocomposite drainage layer be discharged?
3. **Sheet 10. Detail 3. Note 6.** This states that the HDPE liner under the interior floor slab is not welded to the grade beam. It should be to provide a continuous primary lining.
4. **Sheet 11. Detail 7.** The lowered Well Vault (R-1) is not called out on Sheet 6. Should this be Detail 8 (on Sheet 7)? In addition, the liner to well vault penetration detail (Detail 17 on Sheet 13) should be called out to show how the HDPE will be connected to the vault to provide a continuous primary lining.
5. **Sheet 11. Detail 9.** How is the HDPE connected to the steel casing to provide a continuous primary lining?
6. **Sheet 11. Detail 10.** It is not clear where this detail applies. If within the building, how is the HDPE connected to the concrete to provide a continuous primary lining?
7. **Sheet 12. Detail 13.**
 - a. Special care will have to be taken to protect the HDPE liner from potential puncture damage where it crosses the slurry wall; the specifications should discuss removal of rocks or other objects as needed to protect the liner here.
 - b. In Section B, provide a boot-type penetration for both conduits (or some other method to provide a continuous primary lining).
 - c. In Section A and the plan view, the specifications should discuss how the 12-inch-diameter steel pipe is placed to minimize the potential for void formation in the slurry wall backfill. The seep collar is a good idea; the specifications should call for careful tamping of the backfill around the collar and beneath the pipe.
8. **Sheet 13. Detail 15.** The use of the Polylock strip is a convenient method to connect to the concrete, but has limited structural strength. Provision should be made to provide some amount of slack in the liner, or to otherwise accommodate potential differential settlement between the soil and the grade beam. The grade beams are pile-supported

and therefore unlikely to settle very much, while the fill is not pile-supported and may settle differentially relative to the grade beams.

9. **Sheet 13. Detail C.** HDPE is the least puncture-resistant of the commonly used geomembranes. A method to protect the HDPE liner from puncture where it is located above the protective concrete panels should be provided.

EXHIBIT H
PRELIMINARY APPROVAL OF DESIGN
BY IEPA, WITH COMMENTS,
DATED AUGUST 24, 2007



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR

August 24, 2007

Mr. John Moore, P.E., City Engineer
Waukegan City Hall - Engineering Department
100 North Martin Luther King Jr. Avenue
Waukegan, Illinois 60085



Re: Alteration to Slip 3, Proposed Boat Storage Facility
July 6 2007 Alteration Design
OMC Superfund Site
Waukegan, Illinois

Dear Mr. Moore,

The purpose of this letter is to transmit Illinois EPA's comments on the proposed alteration to Slip 3 of the OMC Superfund Site in Waukegan, Illinois to construct a boat storage facility to be used by Larsen Marine.

Slip 3 was constructed to provide a containment cell for TSCA level contaminated dredge sediment from the harbor in excess of 50 ppm and up to 500 ppm PCB. Therefore, the contaminated material below the surcharge sand should be handled, including proper worker PPE and exposure precautions, and disposed of in accordance with TSCA 40 CFR 761.

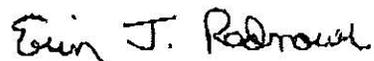
Although the limited sampling performed to determine whether the surcharge sand could be visually distinguished from the underlying contaminated sediment provided in this report shows no results above 50 ppm PCBs, a similar set of data collected in 2004 for a preliminary treatability screening shows 2 values above 50 ppm PCBs. It should be noted that PCB was the only parameter requested, PCB breakdown components, which have the potential to have their own toxic properties, were not.

It is possible that there are zones within Slip 3 that contain materials at or below 50 ppm PCB. When the harbor sediment was originally dredged to place into Slip 3, it is likely some over-dredging occurred that may have included material that tested below 50 ppm PCB, the use of surcharge sand may have had a similar effect, and, through time, there could be some breakdown of PCB. However, there is some data that indicates that there is still material within the containment cell at or above 50 ppm PCB. And, as the harbor was contaminated with sediment containing from 50 to 500 ppm and above PCB, it is possible there are zones containing materials that are closer to the higher limit.

Since the exposure to contaminated materials within Slip 3 will be limited and no excavation is planned below the surcharge sand, the costs to handle and dispose of this material in accordance with TSCA regulations should not significantly affect the total costs of this project.

If there are any questions concerning this letter, please do not hesitate to contact me at 217-785-8725.

Sincerely,

A handwritten signature in cursive script that reads "Erin J. Rednour".

Erin Rednour, Project Manager
Illinois Environmental Protection Agency
Bureau of Land
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276